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

----- X
In the Matter of

LANDS OF COSTUBBS, LLC
(2017-02)

2 Lakeside Road
Section 86; Block 1; Lot 39.3
IB Zone

----- X

PUBLIC HEARING
CLEARING & GRADING PERMIT

Date: February 16, 2017
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DARREN DOCE

----- X

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

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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 16th of February. There
are four items on the agenda this evening and
one item of Board business.

At this time I would like to call
the meeting to order with a roll call vote.

MR. GALLI: Present.

MS. DELUCA: Present.

MR. MENNERICH: Present

CHAIRMAN EWASUTYN: Present.

MR. DOMINICK: Present.

MR. WARD: Present

CHAIRMAN EWASUTYN: We have members
that represent the Planning Board. They'll
introduce themselves at this time.

MR. DONNELLY: Michael Donnelly,
Planning Board Attorney.

MS. CONERO: Michelle Conero,
Stenographer.

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

MR. HINES: Pat Hines with McGoey,

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Hauser & Edsall Consulting Engineers.

MR. RUGGERIO: Paul Ruggiero, Town of
Newburgh Town Council.

CHAIRMAN EWASUTYN: At this time I'll
turn the meeting over to John Ward.

MR. WARD: Please stand to say the
Pledge.

(Pledge of Allegiance.)

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

CHAIRMAN EWASUTYN: The first item on
the agenda this evening is the Lands of Costubbs.
It's a clearing and grading permit. It's here
for a public hearing.

I'll ask Mr. Mennerich to 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 and Chapter 83 of the Town of Newburgh
Code on the application of Lands of Costubbs,
LLC, project 2017-2. The applicant proposes to

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clear and grade 3.5 acres on a 5.63 acre parcel of property for a prospective real estate development. The applicant intends to clear wooded vegetation from the site outside existing New York State DEC regulated wetlands and associated buffer areas. The property is located in the IB Zoning District at the intersection of Lakeside Road and Route 17K. The property is boarded on the south by Route 84 westbound off ramp. The project is depicted on Town tax map as section 86, block 1, lot 39.3. The public hearing will be held on the 16th day of February 2017 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 3rd of January 2017."

CHAIRMAN EWASUTYN: Thank you. Before we open up the meeting to Darren Doce who represents the applicant, I'd like the public to hear from Mike Donnelly, the Planning Board Attorney.

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MR. DONNELLY: Before the Planning Board takes action on this project it wishes to give the public an opportunity to bring to the attention of the Planning Board Members issues or concerns that they may not be aware of. Those that live in the vicinity of the project are most likely people who will speak here and they bring a perspective that will be helpful to the Planning Board.

After Mr. Doce gives his presentation the Chairman will ask those who wish to speak to raise your hand. We'd ask you, when you're recognized, to come forward. If you would tell us your name, spell it for the stenographer so we get it down correctly. Please direct your comments to the Planning Board as well as your questions. If a question can be answered easily by either the applicant's representative or one of the Town's representatives, the Chairman will ask the consultant to address that question.

CHAIRMAN EWASUTYN: Darren.

MR. DOCE: Darren Doce, I'm representing Costubbs on this clearing application.

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As was stated, we're proposing clearing 3.5 acres of a 5.6 acre site located at the intersection of Lakeside Road and Route 17K. The 84 off ramp, westbound off ramp, borders the parcel on the south.

There's a wetlands area located to the center of the site that was delineated, located and validated by the DEC.

What we're proposing, we're clearing 2.7 acres west of the wetland, .8 acres east of the wetland area. All trees and brush will be removed, stumps will be removed, and then the area will be seeded and mulched, restored to a grass or meadow type of environment.

That's basically the application.

CHAIRMAN EWASUTYN: As Mike Donnelly had said, anyone here this evening that has any questions or comments, raise your hand and give your name and your address.

Sir.

MR. KNIESER: Tom Knieser, 53 Lakeside Road. My question is why?

MR. DOCE: Why?

MR. KNIESER: Yeah. Why are you -- I

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mean we've got enough ugly in this Town as it is.
Why are you planning to do more?

MR. DOCE: Their objective is they're
going to try to market --

MR. KNIESER: I'm sorry. I can not
hear you.

MR. DOCE: They've been trying to
market the site for upwards of --

MR. KNIESER: As long as I can
remember.

MR. DOCE: -- twenty years or so.
They've been told by their marketing people and
their realtors to clean up the site and people
can see exactly what we have there. We can walk
out, we can show you the site. I mean it's
covered now with brush, trees that have fallen
down. So their objective is to clean it up,
hopefully make it more attractive to potential --

MR. KNIESER; oh, yeah. By ripping
everything down like the Stewart property which
was -- that was totally devastated. The Loop
worked out very well. I mean that's a barren
piece of property now. So you're going -- this
will be the third link on the ugly tour.

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MR. DOCE: We are renewing the trees, taking the stumps out, seeding it. We did one on the corner of Racquet Road and 17K in front of the accountants a couple years ago, and that's -- if you drive past that, it's a lawn. It's re-vegetated, not unattractive at all in my opinion.

MR. KNIESER: It hasn't sold.

MR. DOCE: It's not a lot for sale. They haven't -- they aren't marketing that one. That's what our intention is here, to do something similar.

MS. KNIESER: Susan Knieser, Lakeside Road. You want to -- you're going to go from 17K to the pond? Are you going on the other side of the pond? I'm confused.

MR. DOCE: Yeah. There is 2.7 acres west of the pond and wetland and .8 acres to the east. They would like to clear everything that is within the wetlands.

MS. KNIESER: There's houses there. Not just ours but there's houses there. It goes right across from the driveway of Ice Time.

MR. DOCE: Yeah, it would be across

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from the driveway of Ice Time.

MS. KNIESER: So that would be all cleared and it would just bring down more noise for the people -- for the houses that live there. When those trees are full it cuts down the noise of 84. So I find that objectionable just because on a whim you're hoping to buy -- to sell a property that you haven't been able to sell in years. It's a weird. I'm a realtor myself. John used to be a realtor. It's a frigin piece of property. I understand your plight but they bought it knowing what it was and now they're trying to dump it and make the neighborhood look ten times worse.

I'm sure you're going to get what you want because that's what the Town usually does. But for the people that live in the community -- and I know there's only four house there's so it doesn't matter, and people are working so we're the only ones that are here -- it's just going to be another eyesore and a dumping ground. They already dump. It's got a no dumping sign across from Ice Time. They already dump there. Are you going to be cleaning it up every time? I've

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called the police when they dump there. I got a license plate once. You're going to make that part where the people live across from Ice Time a new dumping ground. Come on. Guys, please. I just -- I don't know.

And how much property is there from the pond to -- there's a lot of -- there is water there. I know that's wetlands there.

MR. DOCE: Yes, there is.

MS. KNIESER: There is drainage going across Lakeside Road and --

MR. DOCE: There is a wetlands located in the center. We don't propose to disturb that or 100 feet surrounding the wetlands area.

MS. KNIESER: That narrows in there between 84 and across from there. That's not very deep there. I don't know. When you come over on the other side of the pond, that's a lot of wetlands there.

MR. HINES: There's about a 300-foot wide strip that is not proposed to be cleared because of the presence of DEC wetlands and the associated 100-foot buffer with those.

MS. KNIESER: But it will be stripped

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from Ice Time down -- or Ice Time up?

MR. HINES: There's two separate areas.

MS. KNIESER: I know.

MR. HINES: There's a 2.7 acre piece right near 17K, then there's about a 300-foot strip associated with the wetlands and the buffer, and then there's another 150 feet proposed -- plus or minus proposed to be cleared towards -- further into Lakeside Road.

MS. KNIESER: I don't know what you expect to be putting on that piece of property because it does get very wet there. We already have drainage problems at the houses. We own two houses there. But we already have drainage problems between -- anyway, two of the houses, there's already a drainage problem and the drain goes under the road. You start tearing that up and digging it up, you're going to cause more problems with drainage. If you looked at the wetlands map, it's practically coming across Lakeside Road now with the current wetlands map.

MR. DOCE: We realize there is a wetlands. We're totally in agreement. We're not disturbing the wetlands.

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MS. KNIESER: It's almost coming across the street. I mean if you look at the wetlands map, it comes almost across the street. It comes across. The markers are across Lakeside Road because of that drainage system that comes down on the other side, which is a concern.

CHAIRMAN EWASUTYN: Pat Hines, you looked at the plans?

MR. HINES: Yes. We reviewed the plans. Previously the applicant came in and asked just to cut the trees and leave the stumps. We discussed that at the last Planning Board meeting regarding the visual impacts associated with that. The reasoning behind that was that they were trying to limit the amount of ground disturbance so as not to be required to obtain a DEC stormwater permit and meet the requirements of the Town's stormwater management. After that meeting the applicant's representative met with the applicants and they have since modified the plans to provide the stormwater pollution prevention plan. They are going to remove the stumps during the clearing process so that visually the project will -- after the clearing

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process, will look as a grass lawn, initially meadow type area, rather than an area -- the Board was concerned with the look of the stumps and the regrowing of the stumps. There was a big concern of how that would look visually. They brought the project back. They have provided the stormwater management plans. They will require a DEC stormwater permit which they are able to apply for since they've done that stormwater pollution prevention plan.

We've requested a tree protection note be added to the plans to clearly define the areas of the site that are not proposed to be impacted by the tree clearing, and that's roughly, as I said before, a 300-foot strip, the designated DEC wetlands, and 100 foot on either side of that. the proposed clearing and grading project, on either side of that.

Stabilized construction entrances have been added at two locations. Mr. Doce has met with the highway superintendent regarding those locations and will have to provide a letter of concurrence.

The Town does require, on clearing and

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grading permits, a \$3,500 per acre security to assure that the sites are reclaimed per the plans. So there will be that required bonding or some form of security acceptable to the Town to assure that the stumps are removed, the project is re-vegetated and looks as per the plan details. Seeding notes have been added to the plans.

We're requesting a detail of the construction fence be added to the plans.

My final comment just identifies the cost estimate for the security being \$12,250, which would have to be posted.

CHAIRMAN EWASUTYN: Will they be clearing within the DOT area?

MR. HINES: No. The Town has no authority to allow that. The DOT right-of-way is along 17K and the westbound ramps are not proposed to be cleared.

We did take a look at the site. There's not a real large amount of large diameter trees. There's some evergreen trees and large cedars. The majority of it is more of a brush covered area, especially as you get closer to the

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off ramps. The area to the east portion of the site does have some larger trees. I believe the material is all proposed to be chipped on site. That material can be utilized in the reclamation of the site prior to seeding it.

The reason the project is here before the Board now has to do with the DEC's tree clearing limitation time of year. The project -- because of the potential habitat in Orange County for the Indiana Bat and Northern Long Eared Bat, the DEC has restricted large clearing projects to only the timeframe between November 1st and March 31st. So the applicants are pursuing the clearing permit at this time with no other intention or plans for the site. Because of the limited time that the DEC provides for tree clearing for protection of those bat species, they're here before the Board now.

The public hearing for this is optional. The Board did decide at the last meeting to hold the public hearing to receive comments from the neighboring property owners.

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CHAIRMAN EWASUTYN: Jerry Canfield,
Code Compliance?

MR. CANFIELD: Just in addition to the
restoration bond, there will also be a soil and
erosion control inspection fee required.

Point of information. We also
discussed during the work session, the Board did
remind the applicant that this property is in the
glide path for Stewart for any future
considerations.

Also, be mindful that it has three
front yards as it is boarded by three roadways.
That kind of restricts what type of development
and where it can be.

That's all I have.

CHAIRMAN EWASUTYN: Comments from Board
Members. John Ward?

MR. WARD: You were going in reference
to Racquet Road as nice and level. This property
isn't level. Do you have any plans on leveling
it?

MS. KNIESER: There's a stone crop
there.

MR. WARD: You're using that as a

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reference.

MR. DOCE: No. I'm just using that as a reference --

MR. WARD: If it's nice and level and grassy. You're going to have ridges and everything else there. That's why, for the record, I want you to verify that.

MR. DOCE: Well yeah, the topography is more sloping. I was just using that as a reference as to re-vegetating the site. We can re-vegetate a sloped area and still --

MS. KNIESER: When you get on the other side of that little pond, that's a crop -- you're going to have to blast that because that's a stone crop there. It's shale.

MR. DOCE: We're proposing no grading on the site.

MS. KNIESER: But then -- so you're going to leave that there and then come down and clear the rest of it? That little tail?

MR. DOCE: I'm not sure what you're referring to.

MS. KNIESER: When you get down by Ice Time it narrows down and then you've got water

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coming in between -- under the road between the two houses on Lakeside Road and then it goes to that little stream that goes under 84. So I'm concerned about what you're going to do on that part where the water drains. Once you start eroding what's there is it going to flood? What's going to happen?

MR. DOCE: We are not proposing to do anything within the area where the stream or pond is. We are going to re-vegetate and mulch this area that's cleared in order to prevent it from eroding.

MS. KNIESER: I'm talking about on the other side of the pond. You've got a -- when you come down it's like a crop of rocks and then you come down lower and then you've got where they dump. There's a no dumping sign there sometimes. Sometimes it gets knocked over. Then when you get just between where the bilevel is and that ranch, there is water that goes under the highway -- under Lakeside Road and then goes straight back and goes back over. So it's like a very narrow little strip that you're going to strip out.

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MR. DOCE: If you're referring to something that's draining through here, that's off our property.

MS. KNIESER: I'm not really sure where your property ends. Where does your property end?

MR. DOCE: Where that dumping sign is, there is that old road that got cut it. It looks like it must have been the old Lakeside Road at one time. It ends right there.

MS. KNIESER: So it ends right where the dumping sign is?

MR. DOCE: Right.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No further questions.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Stephanie?

MS. DELUCA: No.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: I have a couple of questions. On the clearing limitations, when you're coming down the Route 84 ramp, do you know how far in you can clear. Because it's a State

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right-of-way?

MR. DOCE: There's a fence located along there. That's our --

MR. GALLI: So they can clear up to the fence, Pat?

MR. HINES: Yeah, they can clear up to the fence. They're proposing to clear just short of the fence there.

MR. GALLI: On the Lakeside Road side, how many feet in can they clear from the center of the road? Is there a certain Town spec? In other words, if they can go right up to, I'll call it the shoulder of the road and clear the whole thing or do they have to stay back so many feet into the property and then start clearing?

MR. HINES: That's one of the conversations I was hoping to have with the highway superintendent. Typically projects clear up to the road when they build projects. You'll see many --

MR. GALLI: When they're building projects.

MR. HINES: Yeah. One of the concerns is that -- what you're talking about is there's a

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thin strip of DOT land along 17K that has some -- it's not very lively vegetation. There's going to be some trees left. It's going to look like someone forgot to cut the trees in the frontage there. I would be more concerned if they left some of the vegetation along Lakeside Road. It's going to look like someone purposely left that strip there. There's not a lot of really big trees in that area.

MR. GALLI: When they're developing a piece of property and they clear it, usually there's an option where they're putting new material in to take the place of the old material.

MR. HINES: Landscaping. Right.

MR. GALLI: Under the clearing and grading permit, if they clear up to the property line, and I'll take The Marketplace for instance, you come off the 84 ramp to get on Route 300 from Route 52, take that little stretch there and come off the ramp, up to the light, that whole area still has trees on it. If you go down Route 52 from Winona Lake Firehouse and heading towards 84 and 52, there's still tree lines close to the

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road there. In the fall and the spring and stuff it gives you some blockage. The whole site is opened up, which is now getting re-vegetated little by little. It's looking better. But there is some blockage there. On this one here, if they're clearing right up to the chain link fence, I know there is some vegetation on the other side of the fence. On the Lakeside Road side I know there's three or four houses. If they're going to clear right up to the road, then I have some concern.

MR. HINES: They should be limiting their clearing to their property line unless they coordinate with the Town and the highway superintendent.

MR. DONNELLY: Most municipalities do not want plantings in their roadway rights-of-way. If someone is offering to take it down, generally -- I'm not speaking for your highway superintendent, generally they're gratified if someone is willing to do that because they don't have the time or the manpower. That's why Pat has said we need the highway superintendent's input. If he wants those trees to remain, then

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that has to be honored.

MR. GALLI: The second question I have, come May, June, July -- if they plant grass now it isn't going to take anyway. They're going to have to come back to plant the grass.

And then the enforcement action. How do we enforce it? Say if it ends up like Brookside Farm Road.

MR. CANFIELD: That's the purpose of the restoration bond.

MR. HINES: Yes. The Town will have some security. Whether the Town actually uses that security as leverage or does the work itself. Normally it uses it as leverage.

MR. GALLI: There are a couple properties in Town we're constantly chasing. Once a month, once every other month, put the fence back up, plant seeds, pick up the garbage. It's got to be an enforcement nightmare for the building department.

CHAIRMAN EWASUTYN: Any further questions or comments from the public?

MR. WARD: I think Frank is trying to say along the fence line where 84 is, to leave

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like a buffer of some of the trees there so it's not directly in vision to the trucks coming off 84, cars, everything else.

MR. DOCE: You're requesting a buffer on our side of the fence?

MR. WARD: Yes.

MR. GALLI: Well I wasn't requesting that.

MR. WARD: I'm asking you to.

MR. GALLI: On the other side of the fence. I didn't want you to cut down on the State --

MR. DOCE: I realize we wouldn't be planting on the State right-of-way.

MR. WARD: What Frank was saying, in reference to Marketplace and different areas, you have 84 but you do have a buffer between 84 and the property -- your property.

MR. DOCE: Right. So if we provided -- do you have a width? If we provided like a 15-foot area where we clear brush but not trees over say six inches or --

MR. WARD: Something like that. That would be fine. Whatever trees are there, it's

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limited, but just to preserve them as much as you can.

MR. DOCE: Yeah. I would show a 15-foot buffer and any tree over six inches we'd leave.

MR. WARD: Yes.

MR. DOCE: We would be willing to --

MR. HINES: That's along the 84 ramp we're talking about?

MR. WARD: Yes.

MR. HINES: That would be the southern property line.

CHAIRMAN EWASUTYN: Any other questions or comments?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to close the public hearing on the lands of Costubbs located on 2 Lakeside Road in an IB Zone, being represented by Darren Doce.

MR. DOMINICK: I'll make the motion.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick. I have a second by Ken Mennerich.

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Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MS. DELUCA: I'm going to abstain.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

At this time I'll turn to Mike Donnelly, Planning Board Attorney, to give us the conditions of approval in the resolution.

Michael.

MR. DONNELLY: First, you have not yet issued a declaration of significance. I anticipate that would be a negative one. I can put that in the resolution.

If we're inclined to follow John's suggestion that Darren has agreed to; the first condition would be that we'll need a sign-off letter from Pat Hines that a revised set of plans have been submitted that show a 15-foot buffer along the Route 84 ramp within which area no tree

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greater than six inches in diameter shall be removed. Next, the clearing and grading permit authorizes only the clearing of trees with stumping and with the grass vegetative restoration. The highway superintendent will need to get us a letter signing off on the work proposed to be done within the Town right-of-way. You must comply with the requirements of Section 83-10 of the Code at all times. That includes, among other things, a limitation on the hours when the work can be done. A requirement that any contract for the work to be done makes specific reference to the conditions of that section. You'll need to sign an authorization allowing the Town onto the property for the purpose of compliance inspections, and that authorized official can require additional conditions in the field as necessary. You must comply at all times with the Town's noise and illumination requirements. The permit will be good for a one-year period. You'll need to file a restoration bond in the amount of \$12,250 and an inspection fee in the amount of \$2,000.

CHAIRMAN EWASUTYN: Any questions or

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COSTUBBS, LLC

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comments in reference to the resolution presented by Planning Board Attorney Mike Donnelly?

MR. GALLI: No.

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Then I'll move for a motion to approve the clearing and grading permit, including the negative declaration, for the Costubbs application based upon the information provided and Mike Donnelly's resolution.

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 ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DELUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

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COSTUBBS, LLC

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MR. DONNELLY: Stephanie, I think you
said you were abstaining.

MS. DELUCA: Abstaining. Thank you.
I'm sorry.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 7:30 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 28th day of February 2017.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

AMER, DUCH, DELLAMARCO & PETROSKY LOT LINE CHANGE
(2017-06)

Kathleen Heights & Frozen Ridge Road
Section 20; Block 1; Lots 134, 14.1 & 14.2
R-2 Zone

----- X

INITIAL APPEARANCE

Date: February 16, 2017
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN

----- X

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

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CHAIRMAN EWASUTYN: The second item on this evening's agenda is Amer, Duch, Dellamarco & Petrosky. It's a lot line change, it's located on Kathleen Heights and Frozen Ridge Road in an R-2 Zone. It's being represented by John Millen.

MR. MILLEN: Duch owns the property. The green, the beige and the blue are her properties at this time. Mr. Amer and Mr. Dellamarco are interested in purchasing portions of her property, and she's amenable to doing so.

So her property, which is essentially a 7.5 acre piece or so, a portion of -- 1.3 acres will go to Dellamarco and a portion of 2.6 acres will go to the Amer property.

There's no proposed construction or improvements for either of the portions that will be conveyed.

The Amer property is developed. The Dellamarco property is currently vacant. The Duch property is essentially vacant with the exception of a very old barn which will end up being on the property of Amer.

CHAIRMAN EWASUTYN: Thank you.

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Pat, you look surprised.

MR. HINES: I'm good.

CHAIRMAN EWASUTYN: A simple presentation.

MR. HINES: Yup. We spent a little more time at work session figuring it out. The colorized plan definitely helped. We're aware what's going on.

There's a proposed common driveway easement across --

MR. MILLEN: Yes.

MR. HINES: -- from existing parcel C.

MR. MILLEN: Yes.

MR. HINES: It looks like it needs to project across parcel B in order to provide the access to, I want to say tax lot 15. They may be in common ownership right now which is why you're not showing that.

MR. MILLEN: They're both owned by Mrs. Duch.

MR. HINES: And they are the same -- I realize they have the same last name. I don't know --

MR. MILLEN: Yes, they are the same

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person.

MR. HINES: There's an issue, I guess Mike, of giving yourself an easement.

MR. DONNELLY: There is legally speaking. We would want to see a form of declaration that covers that so in the future when there's a conveyance of property there's a means of the property owners, among themselves, requiring maintenance contributions to keep that up and so that there's no dispute about right of access.

MR. MILLEN: Right. We anticipated that that would be the case. If it is approved, then certainly they would.

MR. DONNELLY: I would need to approve it before the map would be released for filing.

MR. MILLEN: Okay. Well then we will have an agreement prepared.

MR. HINES: Similarly, the common driveway access easement that you're showing on parcel C needs to get submitted to Mr. Donnelly as well.

MR. DONNELLY: The existing one.

MR. HINES: It's proposed. There's a

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proposed easement and then there's going to be this agreement. Those two documents will need to be submitted.

MR. MILLEN: Right. A description of the proposed easement.

MR. HINES: Not just the description but the easement itself.

MR. DONNELLY: I can provide the attorney for the applicant with a form that I would approve. It's not carved in stone. You can do it any way you want. There has to be reciprocal rights to use the roadway and provision for maintenance.

MR. MILLEN: Right. For this proposed easement for this driveway here?

MR. DONNELLY: Correct.

MR. MILLEN: Okay.

MR. DONNELLY: There's an existing, apparently, common driveway easement and maintenance agreement that I'll need to review as well.

MR. HINES: There is no existing.

MR. DONNELLY: Then you need to create it.

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MR. MILLEN: Right. I will say that it wasn't until the course of the field work that it became apparent that this drive was actually running to Mrs. Duch's property through --

MR. DONNELLY: That's why it's an opportune time to make sure there's something of record so it doesn't erupt as a problem some time in the future.

MR. MILLEN: I agree.

MR. HINES: So there will be two documents, the common driveway access and maintenance easement and then this future agreement between the two lots.

MR. DONNELLY: Correct.

MR. HINES: The lot line map needs to have a note stating it will not result in any encroachment. It's a standard note we require. Typically we get a note from the surveyor that based on this there will be no encroachment.

There's no public hearing required for lot lines but the Town of Newburgh has a requirement of a notice to adjoining properties within 500 feet. The process is I will provide your office with the notice, the assessor will

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provide the list of names, and then there needs to be a mailing notifying the surrounding properties that this project is before the Board. That needs to be done within ten days of when you return, and then the Board would be in a position to take action. So it requires an additional meeting after that notification.

MR. MILLEN: Okay. So you're saying we need to notify all the owners within 500 feet of the property that they're going to convey their land, there's going to be a conveyance of these properties?

MR. HINES: Yes. That there's a lot line application before the Planning Board.

MR. MILLEN: Okay.

MR. HINES: It's fairly straightforward. My office does the notice, we'll get it to your office with a list of addresses from the assessor. The mailings are done regular mail. You will address them, stamp them, put them in the envelopes, bring them to the supervisor's secretary and the Town does the mailing. It saves on having to do the certified mailings.

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MR. MILLEN: Understood.

As far as the public hearing goes --

MR. HINES: There is no public hearing.

MR. MILLEN: The people that are notified don't have the opportunity --

MR. HINES: You're just notifying them there is an application before the Board and they can --

MR. DONNELLY: Listen and observe.

MR. HINES: -- come on down at the next meeting.

MR. MILLEN: I understand.

MR. HINES: It's for lot lines where there is no public hearing. In other projects it notifies neighbors early on of the process. It seems to work out very well for the Board.

MR. MILLEN: I understand.

MR. HINES: If you want to give my office a call I can work you through the process.

MR. MILLEN: I'm familiar with the process. I didn't understand that it was required because of the fact that there wasn't a public hearing.

MR. HINES: Right. That part is unique

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to lot lines.

MR. MILLEN: That there would be a mailing to all the owners.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I just have one question. There's an existing barn on the parcel to be conveyed to parcel A. What will be the future of that barn?

MR. MILLEN: From what I understand, Mr. Amer is going to be trying to have it -- have it architecturally sound and use it for some purpose, maybe as studio, or some playground for himself, or a workshop. Something to that effect. It's a fairly stable structure as it is right now. I'm sure under an architect's and engineer's assessment there may be some structural concerns. I didn't notice any but I'm not a structural engineer. It's in fairly good shape and I'm sure it's his intention to use it for something.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: We talked briefly at

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workshop that the way the Amer residence sits and looks, a lot of this was being done to protect the view and vista. I'm just wondering if you wanted to touch on that?

MR. MILLEN: I would suspect that that is true. I can't speak on their behalf. You know, to me, obviously, looking at the way the sites lay, I believe that would be the case. I would say very likely. This parcel here is also owned by Dellamarco, and their view in this direction I think is being protected to some degree because the land falls down. It doesn't show here but there's a distinct difference in elevation as it goes in this direction. So having these parcels become part of their parcel I think would result in that being the case.

MR. DOMINICK: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Stephanie?

MS. DELUCA: No.

MR. MILLEN: I'm sorry?

CHAIRMAN EWASUTYN: I was polling the Members.

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Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Michael, the action before us this evening now?

MR. DONNELLY: You can't take action until the mailings are done.

CHAIRMAN EWASUTYN: Okay. Then we'll work through Pat Hines' office and the Planning Board to when to schedule you for final lot line approval.

MR. MILLEN: Okay.

MR. DONNELLY: John, you could take action under SEQRA if you desire to.

CHAIRMAN EWASUTYN: Pat, your advice under SEQRA?

MR. HINES: There's no proposed construction. It's merely changing lines on a map. We would recommend a negative declaration.

CHAIRMAN EWASUTYN: Okay. I'll move from the Board to declare a negative declaration on Amer, Duch, Dellamarco and -- Petrosky is it?

MR. MILLEN: Petrosky. Correct.

CHAIRMAN EWASUTYN: On this lot line change located on Kathleen Heights and Frozen

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Ridge Road in an R-2 Zone.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

MR. MENNERICH: Frank Galli seconded.

CHAIRMAN EWASUTYN: Thank you. You think it's audible all the time but it really isn't. I excuse myself.

A motion by Ken Mennerich and a second by Frank Galli. Was that the way it went, Frank?

MR. GALLI: That's fine.

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

MR. GALLI: Aye.

MS. DELUCA: Abstain.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion carried.

Maybe just speak a little bit louder,

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that way I can hear it somewhat better.

MR. MILLEN: Thank you. I appreciate
the Board's time.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 28th day of February 2017.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

CVS
(2015-23)

Corel Place (Route 52)
Section 60; Block 3; Lot 5.2
B Zone

----- X

AMENDED SITE PLAN

Date: February 16, 2017
Time: 7:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LUCIA CHIOCCHIO
PATRICK O'LEARY

----- X

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

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CVS

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CHAIRMAN EWASUTYN: The third item on this evening's agenda is CVS. It's an amended site plan located on Corel Place on Route 52 in an IB Zone -- excuse me, in a B Zone. I don't believe it's being represented by Cuddy & Feder this evening. It is?

MR. O'LEARY: Yes.

CHAIRMAN EWASUTYN: Thank you.

MS. CHIOCCHIO: Good evening. I'm Lucia Chiocchio of Cuddy & Feder. I'm going to turn it over to Pat of VHB, the engineers, to talk about the updated site plan.

CHAIRMAN EWASUTYN: Thank you.

MR. O'LEARY: Good evening, Mr. Chairman. My name is Patrick O'Leary, I'm a PE here in New York. I'm a principal with VHB Surveying, Engineering, Architecture, PC.

It was about a year ago I appeared before you. Kind of like Ground Hogs day, being back here last year. Things look very similar in nature.

I do have some handouts for the Board Members. If I may approach, Mr. Chairman, and pass these out.

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We're requesting amended site plan along with amended ARB approval for the site. As noted, approximately a year ago you did provide site plan approval and Architectural Board approval for the site.

The site here, which would be to I believe your left, is the site that was approved last year as part of the proceedings. We're showing the new site plan here. Within your package is contained the new site plan and the renderings that I'll be using on this board. I did not provide a copy of the old site plan that's shown here.

As part of the overall site plan approval, of course there was a SEQRA declaration. We also provided a confirmation and approval of the parking that was provided on the site.

What we are proposing to do, and this would be the first time I've ever been thankful for Indiana Bats, the Indiana Bats actually delayed the progress on this project because of the timing when the trees could be cut down. Unfortunately, as a result of that, as the CVS

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real estate team, operations team in conjunction with their consultants and architects continued to look at the project as designed, they actually came back to us a few months later and said is there anything you could do to improve this, be it from a green standpoint, reduce the paving here, and aesthetically improve the project. I actually worked on this and I said well there's a number of things we could do. We could reduce some parking, which the Board requested initially. More than anything else, if we get rid of this cut through here, this direct cut through, what that does is it allows a tremendous amount of flexibility with respect to optimizing parking layouts. Ultimately what you want to do is reduce your pavement, get a drive aisle and have it double loaded with parking. That's going to reduce your overall paving and increase your overall green space on the site.

In addition to that, a benefit associated with that is elimination of the retaining walls on the site. Fundamentally what we're able to do, once the collective team concurred that we could eliminate this cut

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CVS

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through over here and reduce some of the parking in this vicinity, you can see the parking field now is much smaller in front of the site, immediately in front of the store. That's because we're able to make use of the drive aisle coming along the side here and double load it. It makes it very efficient as opposed to having to project all this parking out into -- out towards South Plank Road here.

So it did take awhile. It took a couple months for everybody to get oars in the water, moving in the same direction.

There was still a question about parking. We had 72 parking spots on this plan here. To do this plan here, the best we could do is get 67 spots out of it. Now, that is more than adequate today for CVS. Over a long period of time what happened, and I've been involved in these for about twenty years, they started with about 50 parking spots, they were grossly under parked, they moved them to 55, moved them to 60, 65, and now we're up in the 70s and 75. Ultimately times have changed and there's a lot more prescriptions being picked up via online

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prescription and e-mail and being distributed that way as opposed to people picking them up at the pharmacy. Ultimately we're finding now that the places that have 70, 75 parking spots, the parking fields are being a little underutilized. We were able to get a general consensus from the operations group and all involved that 67 would be appropriate for the store and they could live with the reduction of the 5 parking spots, particularly because in their opinion they're better quality parking spots across the board. If you look at the parking spots out here, out toward the road, the amount of parking field that you have to walk through to get to the store and the drive aisle, it's un-sidewalked, unprotected. If you look at the new plan over here, essentially all parking associated with the site were only separated from sidewalks by 24 feet plus an 18 foot parking space here. So 42 feet. If you look at the same thing over here, essentially all this parking out here is well outside that 42 foot limit. So there's definitive benefits. It's a safer parking layout to begin with because of the proximity to the

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sidewalks. It substantially reduces the parking field. If you just kind of visualize this plan versus that plan and the amount of black area here, you can see it's a very significant reduction in the impervious area. In fact, it's about 18,000 square feet reduction. So we're going from 75,000 square feet of impervious on this plan to about 57,000 square feet of impervious on this plan. That 18,000 square feet provides a number of opportunities back to the design engineers. Mark Rocky has been the design engineer on this site for the overall site design. By being able to give Mark back 18,000 feet, the things we were able to do is get rid of concrete galleys from a stormwater standpoint, concrete sand filters for stormwater quality treatment, and incorporate more rain gardens and detention area above surface that are green and landscaped, which is a significant improvement from a low-impact design criteria. Ultimately, though, this does satisfy -- the older plan did satisfy low-impact design and we were doing a good job in treating stormwater. This plan is a better means of treating stormwater because it's

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CVS

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taking out all the mechanical storm separators as well as the underground detention system, bringing it back above. Groundwater will be treated better and it will be aesthetically more pleasing.

When we look at the two site plans, other than the fact that we've reduced the paving, we're still fully zoning compliant here. We will need an affirmation from the Board regarding the parking, that the 67 spots is appropriate for the CVS should you decide to approve, at some point, the amended site plan.

From a SEQRA standpoint we did provide a modified EAF. It is our contention that these two site plans are essentially the same and the original EAF should satisfy the requirements. We did provide one in your packet in the event people disagree. The use is the same. The traffic pattern is the same, be it from South Plank Road. We still have an access point out here to the private road. All the conditions associated with the original site plan declaration we believe are directly applicable to this. In fact, we believe this is a much better

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CVS

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site plan in our opinion.

Finally, I've talked about how it improves the site aesthetically. What I'd like to do is show you some renderings of the two sites. These are from similar perspectives. The old one goes on this side. It's the same architect here. From a rendering perspective, generally looking in this direction we had this wall down along the entire side of the site plan. You saw a small portion of the store. Of course this is anything but green. We have the color differentiation in the wall as requested, we have a lead from a vertical standpoint coming across the wall and tried to meet those needs. I do believe when we look at this site plan here versus this site plan here, this is much more aesthetically pleasing looking across the green rain gardens, detention areas and up the bank to the store than was this perspective. I think these are kind of on a similar angle where you can capture the two CVS signs here in the corner. They're not exactly the same perspective but I think it's probably close enough from that standpoint.

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Landscape. We've done nothing to diminish the landscape on the site here. The same quantity of landscaping going into the site, the same types of plantings in and around the rain gardens. In fact, you can see it's a little bit denser down along the roadway here. That's because of the number of rain gardens that we have there.

With that, I think I've outlined the primary -- I think I've outlined all the differences, actually. There is no change in traffic. We have been through NYS DOT and received appropriate permits. We're not changing. The store size is staying the same. The traffic generated by this project is staying the exact same. There's no change there. The architecture of the store is staying the same.

Like I said, what are we doing is reducing the impervious pavement on the site, which allows us to recapture green area and provide better stormwater quality on the site overall, and eliminate this retaining wall here.

So we do believe it's a better design. We came in with what was a design that worked

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from the timing perspective. The Board worked very closely with us and improved that design. I think given a few months and courtesy of the bats, we've had an opportunity to work with CVS. They're excited about this. They do believe this is a better looking plan, they'll feel better about their store, and we hope the community generally agrees with that.

With that, Mr. Chairman, if I could turn it back to you.

One note to the Board in general. We do apologize for getting the renderings to you tardy. They're supposed to be submitted to you, I believe it was prior to the 6th of February. For whatever reason, and I do not know the details why the architect could not complete the renderings, but we did not get them to you in a timely manner and we do apologize. It wasn't that we weren't trying. I think there were technical difficulties or health issues that were associated. Apologies on behalf of KA and VHB.

CHAIRMAN EWASUTYN: Patrick, thank you.

At this point I'll turn to John Ward.
Any comments, John?

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MR. WARD: Two things. It's like beating a dead horse. At the same time, with DQ you had the guardrail there. There's no retaining wall there. I'm asking you to have an opening, a walkway. You could do it in between two parking spots, say four feet with the guardrail so they can walk through. Instead of little Johnny going over the guardrail and rolling down --

MR. HINES: You may want to take a look at that grading plan. There's a significant grade difference there.

MR. O'LEARY: It's a very dramatic grade going down that side. We specifically put sidewalks connecting to the Dairy Queen so that if the public so chose to go into the site, we would hope they would use the sidewalk.

MR. WARD: I'm talking up by parking spot 8.

MR. O'LEARY: As opposed to trying to --

MR. HINES: Right there. The Dairy Queen sits very forward versus this site, and it's right on the grading of the wall there,

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John. There's approximately 22 feet elevation difference at the corner of that parking lot.

MR. O'LEARY: And there's a retaining wall along these, I think it's four parking spots here. The first -- the four furthest spots in the back have a retaining wall to begin with. They'd have to climb over the retaining wall and then they'd be going up about a sixteen-foot grade differential. I wouldn't recommend or want to encourage people to necessarily use that route. If you look on the plan, this is a fairly significant expense to incorporate sidewalks along South Plank Road. It's a little curvilinear. They can come right up to the site on a protected sidewalk. I don't know that I would want to necessarily encourage -- I know people are going to do it inevitably but I would not suggest encouraging it.

MR. WARD: Basically the retaining wall in the front basically you're not having?

MR. O'LEARY: Correct.

MR. WARD: But on the side you are?

MR. O'LEARY: No.

MR. HINES: No, no. There's one on the

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Dairy Queen site.

MR. WARD: That's what I'm asking.

MR. HINES: Existing on Dairy Queen
there's a wall.

MR. O'LEARY: This is not being
proposed as part of our project. This is an
existing wall along these four parking spots that
is on the Dairy Queen property and exists there
today.

MR. WARD: I'm saying further up where
it's flat.

MR. O'LEARY: If you come up in this
area, as you can see it's about an eighteen --

MR. WARD: I mean further towards the
store.

MR. O'LEARY: In here?

MR. WARD: By parking spot 6.

MR. DOMINICK: Parking spot 6.

MR. GALLI: Keep going down. Somewhere
in there.

MR. O'LEARY: This is where the
retaining wall is.

MR. WARD: I'm saying -- keep going
down. Look at your parking spot 6.

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MR. O'LEARY: Our parking spot 6. If we put a path here, this is the lawn area over here and we wouldn't have any immediate connection. In addition to that, if you look at the topography, from here down to there is --

MR. CANFIELD: I think that would require negotiation and agreement with the property owner.

MR. O'LEARY: It's about fourteen feet of grade differential over that stretch there, if I counted the contours right. It's a very steep slope.

MR. WARD: With the rain gardens, about maintaining them over a period of time, we've seen rain gardens go by the wayside, too.

MR. O'LEARY: I believe -- I do -- I know as part of our original submission, which would still -- the amended site plan would be subject to, we had a very comprehensive stormwater maintenance program that was part of it which is to be filed as part of the overall approvals with the land record. So there is teeth to the maintenance of the rain gardens should they not be maintained. CVS wants to be

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-- tries to be a good neighbor.

MR. DONNELLY: We require a stormwater maintenance contract be entered into with the Town for commercial site plans.

MR. O'LEARY: So they try to be a good neighbor. If they miss somewhere along the line, that contract is in full force and in fact valid and they'll be forced to go out there and maintain the rain gardens. We have no issue with that whatsoever.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: Patrick, I like the new concept. I like the traffic flow. You're not directly off 52 to cut that light out to head onto 300. You're making the folks work if they do want to use that as a cut through.

MR. O'LEARY: It's going to discourage them. I'm really hard pressed to imagine somebody wanting to take this circuitous route here to come through when essentially this signal clears out in one light.

MR. DOMINICK: And you're good to go.

MR. O'LEARY: Right.

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MR. DOMINICK: The one question I had was at the rain gardens, page 2 of the handout that you gave us, is that a chain link fence that surrounds it for protection?

MR. O'LEARY: I'll be honest, I don't know what the fencing is that's shown here. I do know on our original elevations, this is the fencing that was provided. I think when I look at the elevations here, this certainly appears to be chain link fencing. From an aesthetic standpoint there's something lost.

MR. DOMINICK: Correct. Correct. Especially from a landscape maintenance standpoint, keeping that clean and free of weeds from growing between the slats.

I don't know if something else could be done there, Pat, or -- I know you need something for protection from driving.

MR. WARD: How about the original fence?

MR. O'LEARY: If I could suggest maybe a condition would be to replace the fence shown on the plans and elevations with the original fence that was shown.

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MR. HINES: Normally we see either a split rail fence with a black chain link fence applied to that, or a black vinyl coated chain link fence seems to blend in a little bit better than the galvanized fence. That is a fence and not a retaining wall across the front of that rendering.

MR. O'LEARY: A black vinyl chain link fence would be nice. I looked at these stormwater facilities. The upper facility is only three feet deep. It's right on that border where I would question the need for fencing at all. I know, you know, most communities have a very strong sentiment that the fencing be provided. I wouldn't want to discourage that.

MR. DOMINICK: Okay. The final question is when you initially proposed this a year ago I think you and I went back and forth on the park -- the benches, the bike racks, the picnic table area that you had. Is that still available? I don't see that.

MR. O'LEARY: Absolutely. It's right here.

MR. DOMINICK: Okay. That hasn't

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changed?

MR. O'LEARY: That has not changed, no. We're still providing the benches. You can see the brown bench. Immediately adjacent to it right there is the bicycle rack. It's probably hard on the smaller scale.

MR. DOMINICK: Thank you.

MR. O'LEARY: It's right in that yellow area to the left of the 6.

MR. DOMINICK: Thank you.

CHAIRMAN EWASUTYN: Ken, questions for Pat?

MR. MENNERICH: Yes. I agree with what Dave said on his comments regarding your plan.

In addition, I like the fact that you didn't put in a straight sidewalk along 52. That does add some variation in it.

The discussion on the fence, the diagram makes it look like it's gray, solid gray. I'm sure if it's coated black -- black vinyl coated chain link you wouldn't see that as gray, you would see the grass. You know, it wouldn't jump out like in that representation.

MR. O'LEARY: We would be happy to

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utilize black and agree to changing it to black coated -- vinyl coated black chain link fence.

Excuse me.

MR. MENNERICH: That's all I have.

CHAIRMAN EWASUTYN: Stephanie?

MS. DELUCA: No comments.

CHAIRMAN EWASUTYN: Frank?

MR. GALLI: The overall new site plan is a lot better than the other one. I think the Indiana Bats saved you. You ought to put a plaque up for them somewhere.

MR. O'LEARY: Actually, just --

MR. GALLI: You did save a lot of money by re-looking at it.

MR. O'LEARY: It's very interesting. I know that thought would occur to people. Generally speaking, it's going to come out to be about the same because of the time lost and the lost store sales and paying me and Lucia. It wasn't me, it was Lucia.

MR. GALLI: The overall plan looks a lot better.

CHAIRMAN EWASUTYN: The layout plan actually states a four-foot high black vinyl

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chain link fence.

MR. HINES: As does the details.

CHAIRMAN EWASUTYN: The detail isn't on the smaller sheet but it does show on the --

John Ward?

MR. WARD: My question is the fence you have there on the left, you had that proposed the first time. Now what's wrong with that fence?

MR. O'LEARY: The only reason it's not being proposed again is relative to the quantity of the fencing because we've changed the entire area out here providing detention and rain gardens. Just the sheer quantity of fencing, that becomes very cumbersome. If I could suggest a possible alternative, maybe get all parties feeling a little bit better, might be to use the architectural ornamental fence from the original plan along South Plank Road here where it would be most visible and allow the chain link fence to go on the backside of it over there so that this would be less -- it's less visible because you do have the landscaping and things in front of it. So it would maintain the aesthetics along the roadway, it would help balance out some of the

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costs because this fence is very expensive. I think hopefully all parties will be happy, and hopefully CVS will agree with me and not take back the money they paid me to redesign the site.

MR. WARD: It accents the site doing it that way, too.

MR. O'LEARY: If that's good with everybody, we certainly concur with that.

CHAIRMAN EWASUTYN: Is the Board in favor of that change as far as the linear footage of chain link fence and the ornamental fence?

MR. GALLI: Yes. I thought you were starting down there again.

CHAIRMAN EWASUTYN: I'm never consistent.

Thank you, Patrick.

At this point any other questions from our Board Members?

(No response.)

CHAIRMAN EWASUTYN: I'll turn the meeting over to Pat Hines and Jerry Canfield.

MR. HINES: Our first comment just has to do with the changes on the site. We spent a lot of time on that retaining wall. If you look

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at the two renderings, obviously the new proposed plan is much more aesthetically pleasing. There's certainly probably some cost savings to your client as well. We encourage the fact that the retaining wall is gone.

We just noted that there's a maximum 2 on 1 slope proposed.

The stormwater management facilities have been revised to reflect the grading changes.

We are reviewing the stormwater pollution prevention plan.

We also concur, as you mentioned, the site cut through drive is no longer a cut through. We were always concerned about that being a quick route around the intersection. This adds a more circuitous route to it. It may be less desirable for people to cut through there.

We noted that the underground stormwater storage has been eliminated, which is also a savings to the plan.

The plan does require resubmission to Orange County Planning because of the drainage changes.

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We will coordinate also with DOT to make sure they have no issues. You are changing the fencing. Because it fronts on a DOT highway, we would recommend it be resubmitted to them for comments.

The parking spaces that were discussed from 72 to 67 now, Ken Wersted can weigh in on that.

This use, this drive-through or drive-up window pharmacy is not one of the uses in your code. We went through that with the Walgreen's site at Noel Drive and 52. The Board does have some flexibility, with Ken Wersted's input based on the ITE manual, to adjust those parking spaces.

Overall I think the improvements to the plan are beneficial to the site and aesthetically to the Town.

At this point the submission to those outside agencies is required.

Back to Patrick's comment on the SEQRA, I think this site is smaller. I think you looked at the worst case previously. I don't think you need to re-open the SEQRA. A SEQRA consistency

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would be appropriate for this. There's less impervious surface, less disturbance, more green infrastructure. I think you're okay there.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I agree with Pat. We talked at the work session about the advantages of this site over the previous one.

Another point to consider in it's favor is that the new grading plan now calls for lesser of an incline in the driveway on 52. It was reduced from an 8 percent to a 7 percent grade.

Just a point of interest. The southeast entrance, that new location will require relocation of a utility pole that's there. I'm sure the applicant will -- the representative will contact the utility, Central Hudson. If for some reason that can't be moved and the driveway is relocated, of course you must come back before the Board.

MR. O'LEARY: Understood.

MR. CANFIELD: That's all I have.

CHAIRMAN EWASUTYN: If I understand correctly Michael, we'll do a SEQRA consistency determination?

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MR. DONNELLY: Correct.

MR. O'LEARY: Which is an announcement that the changes fall within the earlier SEQRA review and present no new significant adverse impacts.

CHAIRMAN EWASUTYN: And you suggest that we poll the Board Members to see if they'd like to have a public hearing on the amended site plan?

MR. DONNELLY: Correct.

CHAIRMAN EWASUTYN: At this point I'll poll the Board Members to see if they would like to have a public hearing on the amended site plan for CVS.

MR. GALLI: No.

MS. DELUCA: I'm abstaining.

MR. MENNERICH: No.

MR. DOMINICK: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Myself no.

Let the record show that the Planning Board waived the public hearing on the CVS amended site plan.

Pat, are you suggesting that we

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circulate to the Orange County Planning
Department and DOT?

MR. HINES: Yes. The other reason for
the DOT submittal is because it is tributary to
their drainage system as well.

CHAIRMAN EWASUTYN: Michael, we have a
letter here dated February 2, 2017 from Ken
Wersted of Creighton, Manning Associates. Item
number 2 in that letter states that parking is
reduced from 72 spaces to 67 total spaces. ITE
parking generation suggests that a parking site
of this size would generate a parking demand of
30 to 40 spaces, therefore the reduction in
parking is not expected to affect the site
operations.

Having the advise from our Traffic
Consultant, he would be in favor to suggest that
the Planning Board adopt that.

MR. DONNELLY: Correct. I'll include a
finding to that effect in the resolution at the
time you act.

CHAIRMAN EWASUTYN: Any other questions
or comments?

MR. O'LEARY: Thank you very much, Mr.

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Chairman and Board Members, and the staff as well.

CHAIRMAN EWASUTYN: Can I have one of your business cards?

MR. O'LEARY: We hope to be back on the 16th of March if we can get the County to act expeditiously on their review, and we will work with the DOT. Actually, our drainage is not really changing the impacts to the roadway, so we expect them to hopefully respond fairly quickly.

CHAIRMAN EWASUTYN: We'll keep that in our back pocket. We can't push the County. We'll be optimistic.

MR. HINES: You can try. We will not.

MR. O'LEARY: It's incumbent upon us to try. I don't know that we will necessarily be any more successful than others in the past but we will try.

Thank you very much for your time.

MR. DONNELLY: Is there any material change to the building treatment? If there is, we'd like to see the new materials. If it's the same, we can just -- no problem, just an amended ARB.

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MR. O'LEARY: No changes to the
building materials whatsoever.

MR. DONNELLY: Okay.

(Time noted: 8:12 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 28th day of February 2017.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

RAM HOTELS, INC.
(2016-21)

Unity Place
Section 97; Block 2; Lot 37
IB Zone

----- X

COMMERCIAL SITE PLAN

Date: February 16, 2017
Time: 8:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

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2 CHAIRMAN EWASUTYN: The last item
3 we have this evening is RAM Hotels. It's a
4 commercial site plan and also a subdivision
5 located on Unity Place in an IB Zone. It's
6 being represented by Larry Marshall.

7 MR. MARSHALL: Good evening. As was
8 stated, this is a two-part application, the first
9 part being a subdivision of the existing 8.5 acre
10 parcel owned by Newburgh Auto Park, LLC. We
11 propose to subdivide approximately 6.4 acres off
12 for the proposed Hilton Garden Inn. The
13 remaining approximately 2 acres will be dealt
14 with at a later date.

15 We have provided the subdivision plan
16 showing the wetland boundaries and topography,
17 the lot geometry.

18 In addition to the simple subdivision,
19 we have proposed mutual easements over the common
20 boundary line, an easement over lot 1 in favor of
21 lot 2, and vice versa, for the purpose of
22 installing a shared driveway, which I'll go over
23 in just a second.

24 This is located in the IB Zoning
25 District. Both lots meet the zoning

1 requirements.

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3 Last time we had submitted a sketch
4 plan. We've obviously improved that to a
5 preliminary plan. Really the concept of the site
6 plan has changed very little from the conceptual
7 site plan we submitted previously. The building
8 footprint has been revised slightly. The
9 previous concept had shown the conference room at
10 the rear of the site -- rear of the building.
11 Hilton Garden Inn, which is the proposed hotel
12 for this, really prefers the conference area to
13 be along the side of the building. We've
14 manipulated the site plan slightly to accommodate
15 that modification.

16 We have relocated the two entrances
17 slightly. I know there was a concern previously
18 over the need or necessity for the two entrances.
19 From the applicant's standpoint, the two
20 entrances are desirable for the Hilton. It also
21 provides an additional means of emergency access.
22 So what we've done is worked with Ron, who will
23 be retaining lot 2, and developed a shared
24 driveway entrance that straddles the property
25 line. Again, we've provided an easement over the

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site to allow that entrance to extend all the way to the Kohl's parcel if it's desired in the future. As this is a hotel use, there's very little need for mutual rights of access into -- what we feel anyway, into a retail facility. If lot 2 were to be developed for a restaurant use or something like that, it would obviously be very beneficial to make a mutual entrance.

We have proposed 116 parking spaces. We've widened out the aisles to 26 feet to accommodate the requirements for fire apparatus access.

We've prepared a stormwater pollution prevention plan which I understand is under review. Obviously for that we are proposing expansion of the existing stormwater pond that serves Unity Place. That's purely for the detention of the water. Treatment of the water will be handled by a bio-retention area which will be located along the edge of the parking on the northerly side.

We have prepared a lighting and landscaping plan as well. The lighting plan, I apologize, that's how I was provided it. It's a

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little bit difficult to read, to follow where the site plan is, but they all are down-lit lights. There's quite a few of them to maintain uniform distribution over the site. Overall it's an average of 1.9 foot candles over the parking area. There are poles around the perimeter and through the front parking area. Mounting heights or pole heights of 20 feet with a 2 foot base on them. Then along the building Hilton Garden Inn wants all their sidewalks to be lit with bollard lighting. This is most evident in the smaller handout provided to the Board. It's on page 3 where you can really see how the site lights up at night, which is a nice illustration.

We have prepared the landscaping plan for consideration. Again, a lot of this is dictated by Hilton Garden Inn. They like their landscaping to mimic their Two Tree logo of the Hilton Garden Inn. So that's replicated in several locations along the site.

There's a patio area outside of the pool and a patio area with a grill outside of the restaurant area. These are all planted with shrubs around the perimeter. Then we've provided

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landscaping throughout. Obviously we need to work on this a little bit. We need to massage it. We've actually reached out to Karen to see if she could help us out with a little bit, just because of the sheer vertical scale of the hotel. So this will be revised slightly.

Then one last item I would like to touch on is the clearing on the site. Anybody that's familiar with it really knows that Ron basically keeps it as a manicured lawn. There is an area up towards the -- down towards the southeast that does require clearing for this application. It's approximately seven/tenths of an acre that would need to be cleared. This parcel is located within 2.25 miles of a known Indiana Bat roost, so we're into the March 31st deadline for clearing. If the Board is so inclined, we would love to consider being able to get that seven/tenths of an acre taken care of before that March 31st deadline. We have provided the Board with a clearing and grading permit application for consideration.

The finishes of the building. We've provided you the standard handout from Hilton

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Garden Inn. Basically it's primarily a multi-colored stucco building with accents throughout the site and then cultured stone. We've provided this from the onset. This is pretty much the standard, or this is the standard Hilton Garden Inn rendering of what they would like to see.

CHAIRMAN EWASUTYN: Larry, thank you.

Frank Galli, comments?

MR. GALLI: If you're standing in front of the Jehovah Witness' gates to their property and you're looking at where the hotel is going, the part you want to clear is to the left and down into the back area as you're going down Unity Place?

MR. MARSHALL: If you're standing at the entrance and looking at the --

MR. GALLI: The dealership to Washington Lake, of course the hotel is on the right. Where are you looking to clear? Going down that hill to the right in the corner there?

MR. MARSHALL: We're up in the front. There's a -- let me get to that. So the area that we're looking to clear is basically this triangular area right here, the entrance to the

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-- the very first entrance to --

MR. GALLI: It's before JW's entrance
on the opposite side --

MR. MARSHALL: Yes.

MR. GALLI: -- as you're going up the
hill?

MR. MARSHALL: If you're driving up
Unity, right before you go into that turn, the
lawn area goes back. It's really that wooded
area that creates that --

MR. GALLI: In the future submissions
is that going to be landscaped as part of the
parking lot?

MR. MARSHALL: That area?

MR. GALLI: Yes.

MR. MARSHALL: That area is -- to give
you -- the cleared area is right here.

MR. GALLI: You're going to put
landscaping back?

MR. MARSHALL: So there will be
landscaping incorporated into that area.

MR. GALLI: There's some building but
there's landscaping also?

MR. MARSHALL: We have the access drive

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that's going in, some parking, a little bit of the building and driveway. We'll be supplementing the landscaping in that area. For this application, two of the existing trees -- I think it's two or three of the trees along Unity Place are required to be removed.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Stephanie?

MS. DELUCA: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: Not on this project.

Larry, for the record I want to say you did a great job on Restaurant Depot. I was in that store a few times and it really, really came out very nice.

MR. MARSHALL: I think CM&B and Callahan deserve all the credit on that. But thank you.

MR. WARD: You always cut it close with the bats.

MR. MARSHALL: As John knows, it's with everything.

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MR. WARD: You covered my questions.

Thank you.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have some comments and then I want to get back to the clearing and grading application that I didn't pick up on. I thought that was sent in as a matter of course.

A sanitary sewer flow acceptance letter is required. I do note Mr. Marshall sent that in to Jim Osborne's office to begin that process, which sometimes takes some time.

We did receive the stormwater pollution prevention plan. I provided some minor technical details based on the plan review so far.

A copy of the wetland delineation report to complete the Planning Board's files should be required. It looks like you're below any Army Corp permit threshold but a construction notification is required.

I'm going to skip over the stormwater ones.

The internal landscaping islands need to be in compliance with the Town Code. Karen Arent is going to take a look at the landscaping

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plan. There's a need for one tree per eight parking spaces.

I have a comment for Jerry Canfield regarding internal hydrants and whether there's a need. The building did receive a zoning variance for height. I think it's 70 feet tall.

MR. GALLI: 69.

MR. HINES: So the jurisdictional fire department and Jerry's office will need to weigh in on the need to bring hydrants into the site or not.

We need to show where the accessible ramps are. We had an issue on another site regarding that.

You show a proprietary stormwater device on the detail sheets. I don't know if that's using that or not.

MR. MARSHALL: It's down at the end right before the bio-retention area.

MR. HINES: It's going to be there.

MR. MARSHALL: It will be there. It's there in our mind, it just needs to go on the plans.

MR. HINES: I just have a comment. I

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assume this is kind of a pedestrian access ramp to the rear parking lot.

MR. MARSHALL: Yes.

MR. HINES: It doesn't seem to work in my mind. I don't know if that's what the intent of that is.

MR. MARSHALL: Hilton Garden Inn wants it there. I think it's better suited two spaces down where it actually lines up with something. You know, yeah, but we'll move that. That's where Hilton Garden Inn proposes it. We'll move it.

MR. HINES: Now I think we need to get back to the seven/tenths of an acre clearing and how we're going to procedurally move that forward if that's a requirement. It is a permitted use. We would need to make a SEQRA determination. I'm just going to go through the steps. We would need a SEQRA determination. We would have to determine whether or not a public hearing would be held. I believe that's discretionary under the code --

MR. DONNELLY: Correct.

MR. HINES: -- for the Board. There

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would be a bonding requirement or a security requirement and an inspection fee. I'm concerned about timing, basically, of how that process gets through, if you're going to make that deadline for March 1st.

MR. MARSHALL: March 31st.

MR. HINES: 31st.

CHAIRMAN EWASUTYN: As you mentioned earlier in the evening, we did circulate for lead agency. This evening we could note that we are declaring ourselves lead agency and maybe taking this to the furthest point. That would be on the advise of Pat Hines and of course the Board Members.

Are we in a position to, one, make a SEQRA determination? Two, could we then hold a public hearing on both the subdivision and the site plan and in effect cover the clearing and grading or is that too broad a brush of a motion?

MR. DONNELLY: Certainly if you granted the site plan and subdivision approval there would be no need for a clearing and grading permit. The question is can that be accomplished in a time period that would enable the applicant

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2 to move forward. That would be cutting it close.
3 If you did issue a SEQRA declaration, and there
4 were no other details needed, and you don't have
5 to have a public hearing on the clearing and
6 grading permit, you could put that on for the
7 next available meeting and then schedule the
8 subdivision public hearing and pick up site plan
9 review at a later point in time.

10 MR. GALLI: What you're saying is we
11 couldn't vote on a clearing and grading tonight,
12 it would have to be done at another meeting?

13 MR. DONNELLY: In March.

14 MR. CANFIELD: Procedurally the
15 clearing and grading, you'd need to start out
16 with an application to the code compliance
17 department, then we disapprove it and refer it to
18 the Planning Board, then it becomes an agenda
19 item on the Planning Board.

20 MR. DONNELLY: I mean we'd need a
21 stormwater plan that's satisfactory to you as
22 part of it.

23 MR. HINES: We do have that. I just
24 haven't gone through it completely yet.
25 Generally it looks okay. I do have some

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technical comments on it.

MR. DONNELLY: The question is could that be done in time for one of your meetings in March?

CHAIRMAN EWASUTYN: There's only one meeting in March that we're actually discussing now, and that would be the meeting of the 16th of March. That would be the earliest meeting.

MR. MARSHALL: Just as a clarification, the stormwater pollution prevention plan portion of this would just be erosion and sediment control; right?

MR. HINES: If we wanted to split out the clearing and grading. There is that issue that this is part of a larger project. At this time we have this project before us.

MR. MARSHALL: The intention is not to -- it's not to begin grading on the site. The intention is to simply be able to get the trees down so that we're not stuck until October 1st.

MR. DONNELLY: We understand your motivation. The problem is we want to make sure the I's are dotted and the T's are crossed. There's already litigation pending against the

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Zoning Board.

MR. MARSHALL: Completely understood.
I just wanted to clarify that.

MR. DONNELLY: I think it is legally permissible for us to treat that sub-permit separately and on it's own provided that that negative declaration is issued. If that part of the stormwater plan that relates to that work is satisfactory and the application is submitted, it could be handled before the site plan and subdivision is handled.

MR. MARSHALL: Okay.

MR. DONNELLY: It's still a tight timetable for you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: A question for Pat.
You mentioned before there's technology available where there's a limited number of trees where they could come in and determine whether the bats are there.

MR. HINES: Yes. Part of the EPA's and DEC's protocol for mitigation for the Indiana Bat is there is the ability to do acoustical studies. You do those the evening prior to cutting. There

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are recordings made of the high frequency noises that each individual bat species makes.

MR. DONNELLY: If they have an Indiana accent you're in trouble.

MR. HINES: Basically that's what it is. You're allowed to cut trees that next day when none of those species of concern -- again, it's just not the Indiana Bat anymore, it's the Northern Long-Eared Bat in this area. They've added a threatened species now to that mix. I've seen it tried one time in Orange County and it worked out very dismal for them because they actually located those species that they didn't want to locate. That is available. There is that other window of time.

MR. DONNELLY: That would be your last-ditch effort if you couldn't get a clearing and grading permit.

MR. MENNERICH: For a small area like this, I mean it would probably be cleared -- if there was nothing you could clear it in a day.

MR. HINES: You could certainly drop the trees. That's the issue. I'll just throw that out there. I know we have a preliminary

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agenda for March 3rd I believe that --

CHAIRMAN EWASUTYN: March 2nd. I'm well aware of the agenda because I sent you the agenda and the outline of what was on the agenda. The purpose of getting the agenda to you was to post the agenda on Tuesday. The purpose, again, was this is a holiday weekend. What we were looking to do was to accommodate everybody's scheduling. That was the meaningfulness of it. I'm well aware of that.

MR. DONNELLY: It's in the applicant's court. If they can get the application in for Jerry, if they can satisfy Pat on that portion of the stormwater plan that relates to this, you don't need a public hearing, you could take action on it provided that you issue a negative declaration.

CHAIRMAN EWASUTYN: Jerry, are you satisfied with that?

MR. CANFIELD: Yes.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: And then we would set this for the 2nd of March, you're saying, for

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the clearing and grading part of it?

MR. HINES: Yes. Potentially. We would at that time have reviewed the detailed SWPPP in conjunction with that and would probably be in a much better position to advise the Board on a SEQRA determination.

CHAIRMAN EWASUTYN: I'll poll the Board Members if they are in favor of that.

Frank Galli?

MR. GALLI: As long as Larry can get it in.

MS. DELUCA: I'll abstain.

CHAIRMAN EWASUTYN: Larry, when Frank says getting it in, that doesn't mean calling at 10:00 at night saying you left it at the back door, --

MR. MARSHALL: No.

CHAIRMAN EWASUTYN: -- realizing I would probably be there anyway.

MR. MARSHALL: Yes. Regarding that specifically, the clearing and grading permit we could certainly submit to Jerry tomorrow morning.

CHAIRMAN EWASUTYN: Jerry, are you ready for that?

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MR. CANFIELD: I guess I'll have to be.

MR. MARSHALL: We'll bring it there.

You know, whether he accepts it --

MR. CANFIELD: As soon as I get back from Matrix.

MR. MARSHALL: That's already been prepared, it's just a matter of submitting the copy. So we can certainly do that tomorrow morning, and then we'll prepare the bond estimate for the erosion sediment control.

CHAIRMAN EWASUTYN: Can we get a mailing in time --

MR. HINES: The mailing --

CHAIRMAN EWASUTYN: -- for the clearing and grading? We don't necessarily --

MR. DONNELLY: The clearing and grading, that work was part of the original application and you mailed and posted for that.

CHAIRMAN EWASUTYN: Have we?

MR. HINES: I think this is the first time it's been here as a detailed plan.

CHAIRMAN EWASUTYN: So you really haven't done any mailing.

MR. HINES: They have not done the

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mailings.

CHAIRMAN EWASUTYN: Michael?

MR. DONNELLY: What's the timeline on that?

MR. HINES: Ten days prior to returning.

MR. GALLI: I hope you have a lot of secretaries.

MR. MARSHALL: I'll be one if I need to.

MR. HINES: We could get it out.

CHAIRMAN EWASUTYN: I'm just raising the question.

MR. CANFIELD: You said seven/tenths of an acre?

MR. HINES: Eight/tenths. There's a .1 over here.

MR. DONNELLY: Is that within the threshold?

MR. CANFIELD: 30,000 square feet.

MR. DONNELLY: Does that fall below the threshold?

MR. CANFIELD: Do you have Chapter 83 there? There's thresholds for what requires a

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public hearing and what does not.

MR. DONNELLY: Less than 10,000 square feet of surface. Less than 400 cubic yards of material. How big is this?

MR. MARSHALL: It's about 30,000 square feet.

MR. DONNELLY: That's the exempt part. Then there's a -- isn't there a level where you can issue the permit?

MR. CANFIELD: What I'm thinking of is the area that requires the public hearing.

MR. HINES: The referral to the Planning Board.

MR. CANFIELD: Right. Once it goes to the Planning Board is a public hearing required?

MR. HINES: It's up to the Planning Board.

MR. DONNELLY: It's at their discretion. It's not exempt.

MR. CANFIELD: I didn't know -- I knew it wasn't exempt.

MR. DONNELLY: I thought there was a level where you could issue the -- that's only if they have site plan approval.

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MR. CANFIELD: I think it's under 20,000 or if they have -- if they have site plan approval then there is no need for the clearing and grading. The site plan approval is what is the allowance.

CHAIRMAN EWASUTYN: So they still have to do a mailing; correct, Pat?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: They still have to do a mailing?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: It's felt if they could accomplish that mailing and satisfy the letter of the law, we could still set this for an agenda item on the 2nd of March?

MR. HINES: Yes. The mailing would have to be done by Tuesday.

MR. MARSHALL: That will give us tomorrow and Tuesday.

MR. DONNELLY: Let me go back to this. It may not require Planning Board approval. It says upon --

CHAIRMAN EWASUTYN: The Planning Board -- excuse me. The Town Hall is closed on Monday.

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2 MR. DONNELLY: Upon filing an
3 application for a permit and paying the fee, the
4 authorized official, which is your office, shall
5 have the authority to grant or deny permits for
6 activities. The authorized official, however,
7 shall not grant a permit for the following
8 activities without Planning Board approval:
9 Number one, clearing which affects more than one
10 acre of ground surface or excavation which
11 affects more than 1,500 cubic yards; grading
12 which affects more than one acre of ground
13 surface and then any partial or one subdivision;
14 and then site preparation within wetlands which
15 affects more than 20,000 square feet. So if it's
16 under one acre, then it doesn't need to come to
17 the Planning Board.

18 MR. CANFIELD: Correct.

19 MR. DONNELLY: So we can cancel the
20 last ten minutes of discussion.

21 MR. CANFIELD: Thank you.

22 CHAIRMAN EWASUTYN: So that brings us
23 to we're now -- we declared ourselves lead
24 agency. Are we circulating to anyone at this
25 point in time since this is -- we don't have to

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circulate to the Orange County Planning Department.

MR. HINES: There's no other involved agencies.

CHAIRMAN EWASUTYN: Where are we at in the process?

MR. HINES: A recommendation from my office regarding SEQRA, and Ken Wersted's office as well for the traffic.

CHAIRMAN EWASUTYN: Are you prepared to do that this evening or would you just defer to --

MR. HINES: I think we should defer that based on our conversation. We have some technical issues outstanding.

CHAIRMAN EWASUTYN: At which point in time we will then make a SEQRA determination, schedule this, if for no other action, for a public hearing on the subdivision?

MR. HINES: Correct. There's the outstanding City of Newburgh flow acceptance letter as well.

CHAIRMAN EWASUTYN: We sent out the informational letter to all those within 500

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feet?

MR. HINES: We have not done that. This is the first time --

CHAIRMAN EWASUTYN: So that's a process we could initiate as a result of tonight's meeting, Larry.

MR. MARSHALL: Yes.

MR. HINES: I think with the tree clearing off the board, we're back --

CHAIRMAN EWASUTYN: Back on track so to speak.

Michael, thank you again.

MR. GALLI: He can clear the trees or he can't?

MR. HINES: He needs a permit from the code enforcement officer. I think the important thing is when you apply for that, that you are cutting the trees and not removing stumps and everything.

MR. MARSHALL: Just getting the trees down.

CHAIRMAN EWASUTYN: So then are we reasonable at this point? Okay, Larry?

MR. MARSHALL: Yes.

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CHAIRMAN EWASUTYN: Good.

Jerry, it's going to be an easy day tomorrow.

MR. CANFIELD: Just a comment. The second driveway does enhance fire protection. It does provide good firefighting accessibility around the building. It allows four sides. With a 70 foot high building, obviously an aerial device would be needed. The 26 foot access road is provided. It does provide better accessibility.

CHAIRMAN EWASUTYN: That's what I thought when you said that.

MR. CANFIELD: As further details come in, such as the utilities, we can comment on hydrant locations and what not.

MR. MARSHALL: We have provided the utility locations on one of the sheets. I'm sorry. Sheet 3 or -- yes, sheet 3 of the plan set. So we do have the proposed utility locations coming in and out of the site. The water line just comes in off the water main.

MR. CANFIELD: Is it sized and everything?

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MR. MARSHALL: Eight inch.

MR. CANFIELD: What size is it?

MR. MARSHALL: Eight.

MR. CANFIELD: It is an eight-inch
main?

MR. MARSHALL: And then we have a six-
inch sewer service line that's coming out the
front and tying into the existing main on Unity.

There is a hydrant -- just for
informational purposes, I'm sure you're aware,
there is a hydrant on Unity Place. Actually, the
closest corner to Unity Place.

Jerry, if it's beneficial we can sit
down like we did on Restaurant Depot.

MR. CANFIELD: We can go over it. The
requirement is a hydrant within fifty feet of the
FP connection on the building. Wherever your
service comes in.

MR. MARSHALL: So it would be here?

MR. CANFIELD: Right.

MR. MARSHALL: So we could basically
stub right off that and provide that.

MR. CANFIELD: Why don't you come in.
Make an appointment and give me an opportunity to

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take a look at it and we can thoroughly talk about it.

MR. MARSHALL: Okay.

MR. CANFIELD: Also, future submissions should include signage and those kinds of details.

MR. MARSHALL: Sure. They're still trying to figure out exactly which signage they want. There's a whole booklet of signs. They're working through that.

MR. CANFIELD: That rendering you had, is that a Hilton Gardens prototype?

MR. MARSHALL: Yes.

MR. CANFIELD: It's different.

MR. MARSHALL: We've also provided how it's intended to look at night, up-lighting in the bollards.

MR. HINES: Does it really have those different colors? Is that something the rendering is depicting?

UNIDENTIFIED SPEAKER: Just to interject. It's not as -- the picture itself is showing it a little bit more vivid than it actually is. It's a little bit more, I wouldn't

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say blended in but toned. It's kind of matching. Here it's kind of the yellow. It's not that yellow. Trust me.

MR. HINES: It looks like they ran out of paint.

UNIDENTIFIED SPEAKER: We can give you a live picture of this. This building does exist. We can give you pictures so you can see how it looks in real life.

MR. HINES: During the discussion for the subdivision portion, is the 2 acre lot going to be restricted to that shared access? There's not a proposal to add another access point to that?

MR. MARSHALL: The --

MR. HINES: Back to the subdivision. Where you're showing the shared access, is that two acres going to be restricted to that access?

MR. MARSHALL: We don't have anything proposed specifically to that.

MR. HINES: I guess it would leave it open.

MR. MARSHALL: I don't know exactly. We don't -- we didn't provide a restriction. If

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that's something that's desired by you or -- I think it all depends on what's going to happen with lot 2.

MR. HINES: It depends on the use, I think, more importantly.

MR. MARSHALL: There's also the possibility of lot 2 being combined with a neighboring parcel and developed in conjunction. There's a lot of things up in the air.

(Time noted: 8:48 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 28th day of February 2017.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

LONGVIEW FARM/SUMMER KIM
(2006-39)

Request for a Six-Month Extension from
February 16, 2017 to July 16, 2017

----- X

BOARD BUSINESS

Date: February 16, 2017
Time: 8:48 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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CHAIRMAN EWASUTYN: The last item of business we have this evening, we have an extension letter for the Longview subdivision, project number 2006-39. It's a request by Tom Depuy, Depuy Engineering, to grant a six-month extension.

I'll ask Mr. Mennerich to read that letter.

MR. MENNERICH: Regarding Longview Farm, Summer Kim Corporation, Sections 1 and 2, Section 20, Block 1, Lots 1 and 3.35. Town of Newburgh Town Job 2006-39. Dear Mr. Chairman, the preliminary approval of the above referenced project is due to expire on February 16, 2017. On behalf of Summer Kim Corporation and Kyra Corp we wish to be placed on the February 2017 Planning Board agenda to request an extension for this project to be granted. If you have any questions, please do not hesitate to contact us. Thank you. Very truly yours, Thomas M. Depuy.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to grant the six-month extension for Longview Farm/Summer Kim subdivision.

MR. GALLI: So moved.

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MR. WARD: Second.

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

MR. GALLI: Aye.

MS. DELUCA: Abstain.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried.

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

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

----- X
In the Matter of

KENTUCKY FRIED CHICKEN
Interior/Exterior Renovations

----- X

BOARD BUSINESS

Date: February 16, 2017
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
STEPHANIE DELUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

----- X

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CHAIRMAN EWASUTYN: Let the record show that we received a letter in reference to KFC Remodeling, Kentucky Fried Chicken.

Jerry, do you want to bring us along on that?

We'll make that part of the record, please.

Can you just briefly discuss it?

MR. CANFIELD: Yes. The Kentucky Fried Chicken located at 39 North Plank Road, Mid-Valley Mall has submitted to the Planning Board a renovation plan which includes some interior renovations and some exterior signage and color scheme upgrades. The Board, after discussion and review of the plans that were submitted, chose that it was not something that needed to come back before the Board for review and referred it to the building department for issuance of a building permit.

CHAIRMAN EWASUTYN: At this point I'll poll the Board Members to see if they are in agreement with that.

Frank Galli?

MR. GALLI: Yes.

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KENTUCKY FRIED CHICKEN

MS. DELUCA: Yes.

MR. MENNERICH: Yes.

MR. DOMINICK: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Yes.

That being said, I would like to move for a motion to close the Planning Board meeting of the 16th of February.

MR. WARD: So moved.

CHAIRMAN EWASUTYN: Motion by John Ward.

MR. DOMINICK: Second.

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

MR. GALLI: Aye.

MR. DELUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

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

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