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

----- X

In the Matter of

SHOPPES AT UNION SQUARE  
(2007-05)

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

----- X

AMENDED SITE PLAN

Date: February 17, 2011  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: ADRIAN GODDARD

----- X

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

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MR. BROWNE: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of February 17, 2011.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on the business before us, including SEQRA determinations as well as code and planning details. I would ask them to 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. COCKS: Bryant Cocks, Planning  
Consultant.

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

MR. BROWNE: At this time I'll turn the  
meeting over to John Ward.

MR. WARD: Please stand to say the  
Pledge of Allegiance.

(Pledge of Allegiance.)

MR. WARD: If you have cell phones,  
please put them on vibrate or turn them off.  
Thank you.

MR. BROWNE: The first item of business  
we have this evening is the Shoppes at Union  
Square. It's an amended site plan being  
represented by Adrian Goddard of Goddard  
Development.

MR. GODDARD: I'll bring up my crew  
here.

MR. WAISNOR: My name is Brian Waisnor,  
I'm the professional engineer for the project,  
from Langan Engineering. If you don't mind, I'll  
use this board here.

1  
2 I put up the site plan that was  
3 included in the set of drawings that you  
4 received. It's an amended site plan from the  
5 last site plan that you approved. It doesn't  
6 change any of the building locations, sizes,  
7 setbacks, coverage, parking. It doesn't change  
8 any of that. All that we're requesting here  
9 tonight is permission to build this project in  
10 phases.

11 Included in your set are drawings that  
12 reflect the site plan at the end of phase I, the  
13 site plan at the end of phase II and the site  
14 plan at the end of phase III.

15 The corresponding plans reflect the  
16 grading, the utilities, the landscaping and  
17 lighting that would occur in each phase as it's  
18 broken out.

19 Just to give you the real simple  
20 phasing, the first phase is down next to the  
21 Cosimo's building to add on the Vitamin Shoppe  
22 and the small retailer next to that, as well as  
23 the front parking field -- or the adjacent  
24 parking field for the Vitamin Shoppe.

25 The second phase would be to construct

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the Staples building and the parking surrounding the Staples building which would essentially complete everything that's south of the stream on the site.

The third phase would simply be to construct everything on the north side of the site. On the north side of the stream on the site including the large supermarket building, the stream crossing and the connection into Lowe's. That's about it.

CHAIRMAN EWASUTYN: Thank you.

We have completed ARB I believe on this, the buildings proposed; right?

MR. WAISNOR: Correct. We're not proposing any changes to those buildings.

CHAIRMAN EWASUTYN: Before I turn to our consultants, I'll turn to Board Members, if they have any comments or questions. Frank Galli?

MR. GALLI: No additional yet.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: The only concern I had I think has been addressed with the way you're going to do the storage with the berm.

CHAIRMAN EWASUTYN: Ken Mennerich?

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MR. MENNERICH: I have no questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No questions yet.

CHAIRMAN EWASUTYN: At this point I'll turn to Jerry Canfield, Code Compliance.

MR. CANFIELD: We have nothing outstanding. The site plan -- the phased site plan is no different than what we had looked at originally with the exception of the phasing.

There have been notes with respect to certificate of occupancies to be issued. They seem to be in compliance. We have no outstanding issues with that at all.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines, Drainage Consultant?

MR. HINES: We reviewed each of the phases and find them to be acceptable. Each of the phases can build upon itself in order, phase I, phase II is dependent on phase I, and then III. So we don't have any problem with that.

The stormwater management facilities to be put in in phase I will serve both phase I and II, so they'll be constructed in the initial phases. Our office previously reviewed those and

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they continue -- they're the same.

They have also been issued the municipal acceptance letter, so they can file for their notice of intent for coverage for the DEC permit.

There are no significant changes to the plans other than the construction sequencing that is shown before you that has been proposed.

The bonding for the stormwater management improvements will have to be submitted through our office. It's a little bit of a change. It used to go through Jim Osborne's office. The stormwater management improvements he wants to go through our office and then to him just as a checkmark when you get the resolution.

Cliff mentioned at work session the improvements to the intersection at Orr Avenue and Route 300. Those are in the final phase. That's more of a traffic demand issue.

Maybe you can explain that. Cliff had a question.

MR. WAISNOR: Correct. The proposed improvements down at Orr Avenue and Route 300 are anticipated to be completed in the third phase

1  
2 when the anchor retailer comes in, primarily  
3 because he's going to be using the rear driveway  
4 for his trucks to come out on Orr Avenue. That's  
5 really the genesis of the improvements down there  
6 is turning radius and turning movement for the  
7 vehicles.

8 MR. HINES: That's all we had.

9 CHAIRMAN EWASUTYN: Just to add on to  
10 what Pat had said as far as bonding and him being  
11 a clearing house for Jim Osborne, please  
12 reference, which I know you have, the project  
13 number with all your bonding and all your  
14 letters.

15 Bryant Cocks, Planning Consultant?

16 MR. COCKS: Mr. Waisnor, can you just  
17 explain to the Planning Board what phase II is  
18 going to look like after phase I is constructed?

19 MR. WAISNOR: Sure. Just to back up a  
20 plan here, after phase I is constructed with the  
21 new Vitamin Shoppe and the parking field in  
22 front, we propose to leave as much of phase II  
23 undisturbed as possible. There's an existing  
24 tree line indicated back here on the plan. There  
25 is a small area between the end of phase I and



1  
2 phase II that we anticipate moving any excess  
3 soil that we have from phase I and stockpiling it  
4 here in phase II in a berm. I believe we've  
5 indicated it's about a five-foot high berm that  
6 will be seeded and vegetated. It's going to  
7 remain if phase II doesn't start right away.

8 MR. COCKS: I have no further comments.

9 I would recommend the Planning Board  
10 discuss a SEQRA consistency determination.

11 MR. BROWNE: I have a question, John.  
12 If it's not going to start right away, what is  
13 right away to you?

14 MR. WAISNOR: Well, we're going to have  
15 an obligation to cover it under the SPDES permit  
16 in two weeks.

17 MR. HINES: Any material left exposed  
18 and not regraded within two weeks needs to be  
19 seeded.

20 There is a potential that phase I and  
21 II may coincide with each other. Am I correct.

22 MR. GODDARD: That's correct.

23 MR. WAISNOR: Yes.

24 MR. GALLI: For the improvements on Orr  
25 Avenue and Route 300, what are you going to do

1  
2 for the construction vehicles? Are they going to  
3 be coming in --

4 MR. WAISNOR: We have the current  
5 entrance at the back of Cosimo's, and we also  
6 have a current entrance over here on 300. I  
7 think we'd like to keep the construction  
8 vehicles, as much as possible, on Orr Avenue to  
9 minimize what goes onto Route 300 for now. If  
10 phase I is built in its completion, there is an  
11 existing driveway that's behind it that will be  
12 able to service phase II.

13 MR. WARD: Construction with Cosimo's  
14 being in business wise, what are you going to do  
15 with the parking and construction vehicles?

16 MR. WAISNOR: Well, fortunately most of  
17 the parking around Cosimo's is going to remain as  
18 is, even during construction. The other  
19 fortunate part is that we have some excess area  
20 in phase II that we can use as a construction  
21 staging area for phase I. So there's going to be  
22 a little give and take when they need to get in  
23 the same area that some parking or some  
24 circulation exists today. We also are working  
25 very close with the owner, and the owner is

1  
2 actually going to be participating in building  
3 these improvements. He's going to have a heavy  
4 say in how his operation is affected.

5 MR. WARD: Thank you.

6 CHAIRMAN EWASUTYN: Karen Arent,  
7 Landscape Architect?

8 MS. ARENT: I have minor revisions to  
9 the certificate of occupancy notes, just to be  
10 revised to require all landscaping and stonewalls  
11 in each phase be complete before the certificate  
12 of occupancy -- before the first building in that  
13 phase. It's just a little confusing. If we just  
14 clearly state that, there will be no questions.

15 Another note shall be included to  
16 require replacement of landscaping damaged by  
17 construction of subsequent phases, and to require  
18 replacement landscaping to be covered by the same  
19 warrantee.

20 Your landscape bond amount, I'm  
21 assuming you would want to submit all the phases.  
22 If you don't want to post the bond for all the  
23 phases, you would need to put a note on the  
24 drawing. Bryant can help you with that note.

25 MR. WAISNOR: Okay. The only thing I

1  
2 would request with respect to completing all the  
3 landscaping before a certificate of occupancy is  
4 issued is if that time shall fall in a non-  
5 planting season --

6 MS. ARENT: The bond will cover that.

7 MR. WAISNOR: The bond will cover that?

8 MS. ARENT: We make sure that it's put  
9 in, installed during the next available growing  
10 season.

11 MR. WAISNOR: Okay.

12 MS. ARENT: We don't bond the  
13 stonewalls, but if they're not put in, then we  
14 would ask for a bond. If for some reason weather  
15 prohibits installing a stonewall at that time, a  
16 bond would be requested.

17 CHAIRMAN EWASUTYN: We discussed the  
18 minor points of the visual component of the site  
19 as it relates to the phasing and what phase II  
20 would look like. We discussed the point that Pat  
21 Hines will be responsible for working with Jim  
22 Osborne and the applicant as far as cost  
23 estimates for bonds. I think Karen will be  
24 reviewing any cost estimates associated with  
25 landscaping. Project numbers, we identified with

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that.

It was the recommendation by our Planning Consultant, Bryant Cocks, that the Planning Board make a SEQRA consistency determination for the amended site plan for the Shoppes at Union Square.

At this point I would move for that motion.

MR. WARD: So moved.

MR. BROWNE: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to give us

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conditions of approval for the amended site plan and the resolution.

MR. DONNELLY: Because this had already earlier received final approval and amended preliminary approval, I'm not going to go through all the resolution conditions. They're the same. I'll talk about the few that have changed. However, I forgot to raise at work session that there were two further plan details, required items, in the most recent resolution that we didn't discuss, and that was finalization of the stream crossing details based upon DEC permits.

MR. HINES: I believe they received that.

MR. DONNELLY: I'll leave that out then.

MR. WAISNOR: We've reflected those on the current plans.

MR. DONNELLY: The other was a comprehensive sign plan. If this is phased, maybe we don't need that. Was that ever submitted?

MR. WAISNOR: I believe we did.

MR. DONNELLY: It was part of the ARB.

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Fine.

The only thing is we'll have a condition regarding phasing that says no certificate of occupancy shall be issued for any building shown on the amended plans in any phase unless all of those improvements specified in the map notes are completed in that phase, before such issuance is in fact completed, to the satisfaction of the Town of Newburgh Code Compliance Department. Phase I shall include under parking storage and water quality control surface sand filters. The ARB condition is amended to reflect that ARB approval is granted for phasing I and II but you'll need to return for additional ARB approval for phase III because the tenant is now unidentified. All of the other resolutions will carry forward.

CHAIRMAN EWASUTYN: Any questions from Board Members? Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. WARD: No additional.

CHAIRMAN EWASUTYN: Consultants. Jerry

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Canfield?

MR. CANFIELD: Nothing additional.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have nothing else.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Nothing additional.

MS. ARENT: Nothing.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to grant conditional final approval as presented in the resolution by our Attorney, Mike Donnelly, for the Shoppes at Union Square amended site plan.

MR. WARD: So moved.

CHAIRMAN EWASUTYN: I have a motion by John Ward.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.



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MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Congratulations. Thank you.

MR. GODDARD: Thank you very much.

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

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

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

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DATED: March 9, 2011

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

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In the Matter of

FCB PROPERTIES, INC.  
MNP INSTITUTIONAL SUPPLY CO., LLC  
(2007-18)

Route 32 & Powelton Road  
Section 80; Block 5; Lot 10  
B Zone

----- X

SITE PLAN

Date: February 17, 2011  
Time: 7:20 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE & DARREN DOCE

----- X

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

1  
2 MR. BROWNE: The next item of business  
3 we have is FCB Properties, Incorporated. It's a  
4 site plan being represented by Darren Doce of  
5 Doce Associates.

6 MR. VINCENT DOCE: Gentlemen, ladies,  
7 you will recall that we were here several months  
8 ago and were referred to the ZBA for an approval  
9 for some setbacks on the proposed building from  
10 the proposed little spur Town road.

11 MR. BROWNE: Excuse me for a minute.  
12 Just for the record, Vincent Doce is presenting  
13 rather than Darren.

14 MR. VINCENT DOCE: I won't bore you  
15 with all of the details. I'm sure you'll  
16 remember as well as I do. We did go to the ZBA,  
17 we received all of the approvals. We have the  
18 minutes reflecting those approvals. We are  
19 awaiting now the resolution.

20 There were several comments by each of  
21 your consultants, and we have reflected on this  
22 plan and incorporated all the comments. We  
23 understand from the reviews that everything has  
24 been done to their approval.

25 We're here this evening looking for

1  
2 final approval. That's what we're requesting.

3 CHAIRMAN EWASUTYN: We had discussed at  
4 the work session that we are in a position to  
5 grant preliminary approval, but because you don't  
6 have a City flow acceptance letter, and Mike  
7 Donnelly will explain that to you, we can't issue  
8 a conditional final approval.

9 Mike.

10 MR. DONNELLY: When the sewer  
11 moratorium ended, the City and Town entered into  
12 an agreement that gave the capacity to the Town  
13 provided that before any final approvals were  
14 granted, the City, for each application, approve  
15 the acceptance of the sewer flows from the  
16 project. We can grant preliminary approval but  
17 under that agreement with the City we can't give  
18 you a final approval.

19 I think what the Chairman suggested at  
20 the work session, assuming all that falls into  
21 place, that once you deliver the letter, it can  
22 be added back to the agenda as a Board business  
23 item for final approval.

24 MR. VINCENT DOCE: Okay. I understand  
25 that. The Board is aware that we did make our

1  
2 request through the channels. I spoke to Jim  
3 Osborne, Jim Osborne made it to the City, and it  
4 goes back to Jim and then back to us. If I  
5 understand what you're saying, the preliminary  
6 approval would be tantamount to, under normal  
7 conditions, a final approval subject to, but  
8 because of the wording of the law it will be  
9 phrased preliminary. That's fairly standard.  
10 It's tantamount to an approval at that point.

11 MR. BONURA: We can't get the final  
12 approval from the State for the light without the  
13 final Planning Board approval. It just goes on.

14 CHAIRMAN EWASUTYN: Right.

15 MR. BONURA: Can't we get final  
16 approval just for the restaurant that's there,  
17 that already is in the sewer? We're already in  
18 the sewer for the 5,000 square foot restaurant.  
19 We're already in that district. Can't we get it  
20 for that so I can go to the State and say we have  
21 final approval for that so I can continue that  
22 along, --

23 CHAIRMAN EWASUTYN: That would be a  
24 question Mike Donnelly would have to answer.

25 MR. BONURA: -- and then come back for

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the addition?

MR. DONNELLY: Is the restaurant operating now?

MR. BONURA: No, but we're connected to the sewer.

MR. DONNELLY: By use, not by --

MR. HINES: You wouldn't need an approval for the use of that building.

MR. BONURA: Okay. So then why can't we get final approval for that building, that portion and not the proposed 10,000 square foot addition, and come back for that?

MR. DONNELLY: You'd have to come back with a phased plan. That's not what you're proposing. I'll turn to Jerry as to whether you could utilize the building. I don't know enough about the history.

MR. CANFIELD: You can utilize the building, but that's not why this application is here. What's there and what's existing you don't need any approvals for. It is an existing restaurant, and, you're correct, it was functioning as a restaurant.

As far as the sewer acceptance goes,

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the flows, that's all accepted. You have no reason to be here for that.

MR. HINES: It's only the addition you need that for.

MR. CANFIELD: It's the addition that brings you here.

MR. HINES: It could be as soon as two weeks if you have the letter.

CHAIRMAN EWASUTYN: Darren, did you contact -- I remember I spoke to you about a week or so ago.

MR. DARREN DOCE: We sent that letter in January 5th. I tried a few times in the past week, this week to get in contact with Craig Marti and he has not returned my call yet, so --

MR. BONURA: Preliminary approval means that once we get the letter we get final approval?

CHAIRMAN EWASUTYN: Correct.

MR. BONURA: There's no other stipulations or any other problems that can come up at that time?

CHAIRMAN EWASUTYN: I think except for whatever bondings have to be in place, I would

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say --

MR. HINES: We have some technical comments that Darren's office can address.

CHAIRMAN EWASUTYN: Mr. Bonura, let's go through the whole process, and then, based upon that, you can see what might be outstanding, what might have to be redefined and go from there.

Jerry Canfield, Code Compliance?

MR. CANFIELD: In the work session we had talked about, and Pat will elaborate on it because it's his comment, but the addition will need to be sprinklered. I know the existing structure is sprinklered. We just need to see that the existing water line, if you choose to use that, is large enough to facilitate the demand for the system for the addition. If not, then of course you need to display, you know, what you're going to do, if you're going to bring another line in. I know Pat has some concerns with the separation of the domestic and the fire line as well. That's all I have.

MR. VINCENT DOCE: Both the domestic and the fire line exist today, and the -- I



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thought the comment by Pat was that since it was not new construction throughout, that that might be sufficient pending your approval, Jerry. Is that -- am I understanding that?

MR. HINES: That's correct. It's just a matter of whether the fire line is of adequate size for the building that is, again, two-thirds as large. It may very well be. What size line --

MR. BONURA: It's a six-inch line.

MR. CANFIELD: It is a six inch to the building, Joe?

MR. BONURA: Yes. They put six inch for the sprinkler system.

MR. CANFIELD: More than likely that would be adequate.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We reviewed the stormwater management report and we find that acceptable.

The only comment is that there needs to be fencing and possibly some guide rails because the grading goes into the existing and proposed Town roadways. We're suggesting you meet with Jim

1  
2 Osborne and Darrell Benedict to work out how  
3 that's going to work to make sure there's no  
4 issues with vehicles in the stormwater management  
5 pond that has roadways on all four sides of it.  
6 A technical comment you can work out.

7 The manhole detail, take a look at  
8 that. The forty-two inch diameter pipe may need  
9 to be a little larger. Again a technical issue.

10 The City of Newburgh flow issue we just  
11 talked about.

12 The sprinkler issue we discussed.

13 A lot consolidation requirement that I  
14 believe Mike Donnelly can address. I know Mr.  
15 Rhones is here. Maybe he'll address that, too.  
16 There's a concern because the stormwater  
17 management parcel is now separated by the new  
18 proposed Town roadway. There needs to be a  
19 mechanism that that remains part of the parent  
20 parcel for long-term maintenance so it can't go  
21 for tax sale or something.

22 MR. VINCENT DOCE: We discussed that,  
23 and Joe and --

24 MR. RHONES: I haven't had a chance to  
25 discuss it yet.

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MR. DONNELLY: I have the proposed condition. We'll see if that is satisfactory when we get to it.

MR. HINES: That's all we have, just those clean-up items.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The applicant needs to go to the Town Board for approval of the road name. I don't know if that's happened yet.

MR. VINCENT DOCE: That's been submitted. We're waiting for a reply back.

MR. COCKS: The applicant also stated ARB approval be pursued when a tenant is secured. That's not before the Board at this time.

The Planning Board will need to discuss a waiving of the design guidelines for the parking in front of the site. It's an existing site and there's no room to place it all in back, so the Planning Board will need to discuss waiving that requirement.

Other than that, the applicant has submitted a revised EAF as requested and moved the highway identification sign to the new

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proposed roadway.

CHAIRMAN EWASUTYN: Karen Arent,  
Landscape Architect?

MS. ARENT: In response to my comment  
regarding parking on the DOT property, you're  
going to obtain a use and occupancy permit from  
the DOT?

MR. RHONES: Yes. That's been  
requested.

MS. ARENT: Okay. And one of my major  
concerns is the view from Route 9W of the  
stormwater management basin, especially that  
there needs to be guide rails and fencing.  
Sorry. The view from Route 32. I was wondering  
if there could be some attention paid to either  
the type of fence that you're installing or where  
it's located. Maybe landscaping can be put in to  
help screen it. Maybe part of it becomes a  
stonewall, maybe curved like around the  
intersection or something like that. That's a  
very visible corner and we just want to make sure  
that that -- it ends up looking as good as it can  
look.

MR. VINCENT DOCE: We were aware of

1  
2 your comments, and Darren and I, and whomever  
3 else you wish, would be glad to meet you. We  
4 have our ideas as to what should be done.  
5 Perhaps an ornamental fence with a bullnose on  
6 the corner with some kind of stuff about --  
7 verbiage about what's there. We couldn't do it  
8 until we --

9 MS. ARENT: That sounds good. That  
10 would be up to the Board.

11 CHAIRMAN EWASUTYN: That would be  
12 something that would have to be approved by the  
13 Board.

14 Does the Board want to set a meeting  
15 between Karen Arent, Vince Doce and Darren Doce,  
16 and Joe Bonura if need be, to review the impact  
17 of the stormwater detention pond and ways to  
18 mitigate it?

19 MR. GALLI: If he has an idea and he  
20 puts it on the plan, if it's all landscaped  
21 properly, do we need a meeting? It's not that  
22 big of an issue.

23 MR. VINCENT DOCE: We have what we  
24 would like to do. We'll submit it to the Board  
25 and Karen.

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CHAIRMAN EWASUTYN: And Karen will work back and forth with you to find a reasonable solution. That saves time and money.

Comments from Board Members. Frank?

MR. GALLI: No. Actually I didn't have anything additional.

Just stay on top of the City if you want your permit.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm good with the landscaping situation resolved.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comments.

CHAIRMAN EWASUTYN: Mr. Bonura, do you have any questions at this point now that the technical items were spoken about?

MR. BONURA: No.

CHAIRMAN EWASUTYN: Okay. Mike, I'll move for a motion to grant preliminary approval and then you'll review the resolution?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: I'll move for a

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motion to grant preliminary approval to the FCB Properties site plan with the understanding that ARB will come along at a further time.

MR. GALLI: So moved.

MR. WARD: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Mike Donnelly, would you review the resolution?

MR. DONNELLY: The first two conditions are we'll need sign-off letters from Pat Hines on the items in his memo of February 11th and Karen on the satisfactory stormwater fencing, Town road name approval by the Town Board, the City flow

1  
2 acceptance letter before final. We'll mention  
3 the requirement that you obtain a use and  
4 occupancy permit from the DOT, but that's tied to  
5 construction, not to plan signing. We'll  
6 reference the ZBA decision of December 23, 2010.  
7 We do have a requirement that a drainage easement  
8 running to the Town be approved. Joe Rhones has  
9 given me that easement. I checked with Pat and  
10 it does need to go to the Town. Those are  
11 typically reviewed by Mark Taylor. I'll send it  
12 over to him. I don't see any problem with that.  
13 Next, there are three tax map parcels involved  
14 here. I know from the application packet and the  
15 easements that there are two corporate entities.  
16 Is that going to stay that way or is this going  
17 to be in one corporate ownership?

18 MR. RHONES: We can combine them.

19 MR. DONNELLY: If that's okay, what the  
20 condition is going to say is you need to combine  
21 all three and do a single tax map parcel, deliver  
22 appropriate documentation to the Town tax  
23 assessor so that we know it's permanent and  
24 there's not going to be a request to have them  
25 separated again, and give us a copy of that deed.



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2 It should include language that says that these  
3 parcels are intended to operate as a single  
4 parcel and the drainage piece is to remain  
5 coupled with the main piece for so long as the  
6 facility operates. Architectural Review Board  
7 approval is reserved. We will list the required  
8 financial securities that will need to be posted  
9 at the time of final approval, and those are  
10 landscape, stormwater, Town road. I think those  
11 are all of them. There's an offer of dedication  
12 for the roadway that Mark Taylor will need to  
13 see. We have a standard condition that prohibits  
14 construction of anything not shown on the plans.  
15 No outdoor fixtures, amenities that aren't shown.  
16 That's all the conditions.

17 CHAIRMAN EWASUTYN: Mr. Rhones, what's  
18 important at this point also is how -- number  
19 one, we're always going to have to identify the  
20 project letter -- project number in whatever  
21 you're submitting from this point on.

22 MR. RHONES: Mm'hm'.

23 CHAIRMAN EWASUTYN: That will meet the  
24 conditions of approval. Where this is going to  
25 get somewhat -- how are we going to track it name

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wise? Can we continue on with the same name? Do we go back to the new corporation?

The difficulty, Mr. Bonura, with all of what we do is as a project evolves there becomes name upon name upon name, and then the tracking mechanism in the Town becomes almost impossible.

MR. RHONES: Is it now MNP?

CHAIRMAN EWASUTYN: As far as our records go it's still the original FCB.

MR. RHONES: Oh, that doesn't work.

CHAIRMAN EWASUTYN: That's now changed.

MR. DONNELLY: To confuse it, the owners are known to us to be MNP Institutional Supply Co, LLC and JJ&H of Walden, Inc. The project name is FCB Properties.

MR. BONURA: We'll combine everything into MNP. That will be the project name. The three parcels will be in that name.

CHAIRMAN EWASUTYN: Okay. Pat, how would that work?

MR. HINES: That's fine. I think as long as we keep referencing our project number on anything submitted, that helps us a lot.

MR. CANFIELD: I think referencing the

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project number is most important.

CHAIRMAN EWASUTYN: Excuse me?

MR. CANFIELD: I think referencing the project number is most important.

MR. RHONES: And the project number is what?

MR. HINES: 7-18.

CHAIRMAN EWASUTYN: You heard the conditions of approval, preliminary approval, and the resolution presented by our Attorney, Mike Donnelly. Any questions on that?

(No response.)

CHAIRMAN EWASUTYN: There being no questions, I'll ask for a motion to approve preliminary approval.

MR. GALLI: So moved.

MR. BROWNE: Second.

MR. MENNERICH: We already approved it.

CHAIRMAN EWASUTYN: Then we just went through the conditions. Thank you.

MR. RHONES: Very good. Thank you.

MR. DONNELLY: I'll e-mail you the resolution and copy you in my e-mail to Mark Taylor.

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2 CHAIRMAN EWASUTYN: As a matter of  
3 record, we'll set this for Board Business on  
4 March 3rd for conditional final approval. If  
5 you don't have the City flow acceptance  
6 letter, then we'll move it forward to the  
7 next meeting, which would be the 17th of  
8 March.

9 So I'll move for a motion now to set  
10 this up for Board Business at our meeting of  
11 March 3rd.

12 MR. GALLI: So moved.

13 MR. MENNERICH: Second.

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

17 MR. BROWNE: John, just for the record,  
18 we need to go back because we started to  
19 introduce the new project. I'll mention this is  
20 FCB Properties or the new name.

21 CHAIRMAN EWASUTYN: Okay. The motion  
22 is to set MNP Institute Supply Company for Board  
23 Business on the 3rd of March for consideration of  
24 final approval.

25 MR. BROWNE: So moved.

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CHAIRMAN EWASUTYN: I have a motion by  
Cliff Browne.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: A second by Frank  
Galli. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So  
carried. Thank you.

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

(Time resumed: 7:36 p.m.)

CHAIRMAN EWASUTYN: Before we move  
forward on this property, I'd like to go back one  
more time to amend the preliminary approval for  
FCB Properties, project number 2007-18, and to  
motion from the Board to waive the design  
guideline standards. Of course this is a pre-  
existing building that does have parking in the  
front.

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So I'd move for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. BROWNE: John, just to note for the previous motion we used the new name for the --

CHAIRMAN EWASUTYN: I'll identify it as the project number 2007-18. That's what I did in the motion.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: As I said earlier, it gets too confusing.

Any additional comments?

(No response.)

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

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FCB PROPERTIES, INC.

MR. MENNERICH: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

MR. DONNELLY: John, that is included in the resolution, I just forgot to raise it.

CHAIRMAN EWASUTYN: I thought as a matter of record, because you're going to have to do the same for this project also, and Bryant had noted that in his review.

(Time noted: 7:38 p.m.)

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

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

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DATED: March 9, 2011



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

----- X  
In the Matter of

LANDS OF BJs HOLDING, LLC  
(2010-24)

16 Route 17K  
Section 97; Block 1; Lot26  
IB Zone

----- X

SITE PLAN

Date: February 17, 2011  
Time: 7:35 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

1  
2 MR. BROWNE: The last item of business,  
3 once again, is lands of BJs Holding. It's a site  
4 plan being represented by Ken Lytle.

5 MR. LYTTLE: Good evening. Since our  
6 last meeting we've been before the ZBA getting  
7 the variances that were required for this  
8 project.

9 I've actually shown the additional  
10 comments that the consultants had on the project.

11 There was a comment regarding the  
12 handicap and the drop curb in the front. There's  
13 no problem showing that in the curbing.

14 You also asked for a handicap spot to  
15 be placed in the back. We have no problem  
16 adjusting the plan to show that for you.

17 Also, I guess there was a question  
18 regarding the size of the main. I believe I have  
19 down here on this portion of the drawing where  
20 the eight-inch main is.

21 There was a question regarding the lot  
22 coverage. It ended up on sheet 1 up in the  
23 corner. It was actually reduced from what it was  
24 with all new landscaping. We worked with Karen  
25 Arent to discuss the landscaping issues.

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MR. HINES: You showed that as lot coverage?

MR. LYTTLE: Yes.

MR. HINES: I was looking for a specific --

MR. LYTTLE: Do you want me to readjust that?

MR. HINES: No. That's fine.

MR. LYTTLE: We were working with Karen Arent with the landscaping to get that into a workable form. We're back before the Board.

(The Board returned to the record on FCB Properties. Time noted: 7:36 p.m.)  
(Time resumed: 7:38 p.m.)

CHAIRMAN EWASUTYN: I'm sorry, Ken.

MR. LYTTLE: Additionally, we got in touch with the City and we have the sewer acceptance letter, you guys have copies of that, to tie into the Town/City sewer. We're working with Manheim, who is the adjoining owner to the north and to the west. There's three manholes located approximately thirty to fifty feet off our property. We're working with them to find out which one he'll allow us to tie into. We met

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2 with the Town for the sewer and he said either  
3 one of the three would be acceptable to be tied  
4 into. We have to supply the details whenever we  
5 determine which one that will be.

6 MR. HINES: You'll need an easement for  
7 that also; correct?

8 MR. LYTLE: Correct. They're trying to  
9 figure out if it will impact anything they do in  
10 the future. They want to make sure whatever they  
11 do, it will not impact them doing anything on  
12 that property.

13 CHAIRMAN EWASUTYN: Jerry Canfield?

14 MR. CANFIELD: One thing, Ken. The  
15 Town of Newburgh has a more restrictive sprinkler  
16 requirement than the State Fire Code. Even though  
17 the additions proposed are small in comparison to  
18 the existing building, there's two reasons it  
19 makes this building comply to the code and that a  
20 system is required, a sprinkler system. You're  
21 breaking it up into several occupancies and it  
22 will now be retail and office or other occupancy.  
23 I think it's limited to office. That mix now  
24 warrants a sprinkler system to be installed. As  
25 I'm sure you're aware too, you have the option to

1  
2 petition the Fire Bureau for a sprinkler  
3 variance. If it's your intention or the  
4 applicant's intention to sprinkle the building  
5 and adhere to that requirement, then we need to  
6 see the sizing of the water line. I know Pat is  
7 going to question also the water line, and the  
8 separation for the potable water as well. The  
9 existing plan shows a well in the front. So that  
10 item just needs to be addressed and clarified,  
11 what it is that your intentions are.

12 MR. LYTLE: We'll double check it with  
13 the client and get back. If it's a technical  
14 issue we can work it out with Pat. We proposed a  
15 new water line being tied into the existing well  
16 and being brought into and tied into the service.  
17 Again, that probably will have to change  
18 regarding sprinklers.

19 MR. CANFIELD: That's all I have, John.

20 CHAIRMAN EWASUTYN: Thank you.

21 Pat Hines?

22 MR. HINES: We have a comment regarding  
23 handicap accessibility. There was no drop curb  
24 in the front and there was no handicap spot in  
25 the rear, which Mr. Lytle has addressed.

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The sprinkler system we just discussed.  
The easement area we discussed at work session. That's going to be a private matter between the people with the easement.

The size of the water main along with the sprinkler has been addressed.

The location of the sewer main to the neighboring property needs to be shown on the plans and the easements need to be delivered for review.

I will check the lot coverage calculation that was shown on the bulk table. I just didn't notice it there.

That's all we had.

CHAIRMAN EWASUTYN: Are you okay with that?

MR. LYTTLE: Absolutely.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I note that the Orange County Planning Department issued a Local determination on December 16th.

As mentioned, a sewer flow acceptance was granted on January 14th.

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We did have a conceptual approval letter from the DOT that a highway work permit won't be necessary.

As mentioned by Mr. Ewasutyn before, the Planning Board will discuss the waiver of the design guidelines for putting the parking in back of the site.

The applicant did show a sidewalk wrapping around the building as requested.

ARB approval will be required for the building addition at some time. I don't think you're coming forward with that now; right?

MR. LYTLE: Not now. He's not sure exactly what tenant is going to be there.

MR. COCKS: And the lighting on site. Is there going to be any additional lighting installed or --

MR. LYTLE: We're just using the existing. There's none proposed.

MR. COCKS: That was all.

CHAIRMAN EWASUTYN: How is the site currently lit?

MR. LYTLE: There's a light actually up here by the sign. Besides that, in the back

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there's actually light poles in this -- one, two, three light poles in the back parking lot.

MR. GALLI: Do they belong to the Auto Auction or are they on your property?

MR. LYTTLE: They're on my client's property.

CHAIRMAN EWASUTYN: Okay. Karen Arent, Landscape Architect?

MS. ARENT: The only comment I have that wasn't already mentioned is the sign that you're showing eighty square feet for and whether you want to make that smaller or seek a variance for signs on the building?

MR. LYTTLE: At this point I would like to keep the existing size. If they want to do something when they find out what the actual tenant will be, we'll come back for a variance or reduce the size.

MR. DONNELLY: If it's noncompliant it can't be on the site plan.

MS. ARENT: It's compliant. They only have seven square feet left.

MR. LYTTLE: We have seven square feet left currently.



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MS. ARENT: That's correct.

CHAIRMAN EWASUTYN: Okay. Comments from Board Members?

MR. GALLI: No additional.

MR. BROWNE: No questions.

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Mike, we declared our intent for lead agency. We do have to make a SEQRA determination.

MR. DONNELLY: You did lead agency. You haven't covered the hearing or declaration of significance. Correct.

CHAIRMAN EWASUTYN: Does the Planning Board want to have a hearing on this?

MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Let the record show that the Planning Board waived a public hearing for BJs Holding.

I'll move for a motion from the Board to declare a negative declaration for BJs Holding.

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MR. WARD: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

I'll move for a motion from the Board to waive the design guideline standards for parking in the front of BJs Holding because it's a pre-existing building.

MR. MENNERICH: So moved.

MR. BROWNE: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Myself. So carried.

Mike Donnelly, would you give us conditions for final approval in the resolution?

MR. DONNELLY: I just have one question. Pat, you mentioned an easement. What is the nature of that easement?

MR. HINES: Sewer to the adjoining property. The existing sewer mains are on the Manheim auction property. They're looking to interconnect with those.

MR. DONNELLY: We'll need a sign-off letter from Pat for the issues in his December 11th memo I think -- February 11th memo. My approval of the sewer easement to the adjoining property. We'll carry the condition we spoke about from the first meeting, and that is that this approval is granted for retail and office uses only. Not more than three retail spaces not to exceed 8,400 square feet in total may be utilized with the balance to be office only. No restaurant use shall be permitted. We'll note that a conceptual approval was granted by the DOT but you will need a highway work permit. We'll

1  
2 note that the City of Newburgh sewer flow  
3 acceptance letter has been received. We'll note  
4 the existence or the issuance of the variance by  
5 the Zoning Board of Appeals. We will reserve ARB  
6 until a future date. The required securities  
7 will be -- I'm not sure.

8 Do we need a landscape security?

9 MS. ARENT: Yes.

10 MR. DONNELLY: Do you know what the  
11 inspection fee will be?

12 MS. ARENT: Probably \$2,000.

13 MR. DONNELLY: Stormwater?

14 MR. HINES: No.

15 MR. DONNELLY: None other than?  
16 There's no water main, there's no sewer main, no  
17 roadways?

18 MR. HINES: Just laterals.

19 MR. DONNELLY: Then the standard  
20 condition regarding the prohibition on the  
21 construction of any structure, amenity or  
22 facility not shown on the approved plans.

23 CHAIRMAN EWASUTYN: Any additions or  
24 comments from Consultants or Board Members?

25 (No response.)

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CHAIRMAN EWASUTYN: Okay. Then I'll move for a motion to grant conditional final approval to BJs Holding subject to the conditions that our Attorney, Mike Donnelly, presented in the resolution.

MR. WARD: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Do you think he's going to do something this season?

MR. LYTTLE: I believe so. I'm meeting with him tomorrow, so I'll have a better answer tomorrow. He hasn't plowed any snow yet but --

I do have actually one question for

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Karen. The landscape cost estimate, that gets reviewed by you but we don't have to get Town Board approval?

MS. ARENT: You submit it to me and I submit it to them.

MR. LYTLE: Good enough. Thank you very much.

(Time noted: 7:48 p.m.)

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

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

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DATED: March 9, 2011

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

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In the Matter of

RESOLUTION OF APPROVAL FOR THE BOY SCOUTS OF AMERICA  
BUILDING ON JEANNIE DRIVE

DISCUSSION BY MICHAEL DONNELLY, ESQ.

----- X

BOARD BUSINESS

Date: February 17, 2011  
Time: 7:48 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOHN A. WARD

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

----- X

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

1  
2 MR. BROWNE: We have one item of Board  
3 Business. Mike Donnelly will discuss the  
4 resolution of approval for the Boy Scouts of  
5 America building on Jeannie Drive.

6 MR. DONNELLY: You'll remember we  
7 discussed this at our last meeting. This is a  
8 building that's -- an addition to a building  
9 that's proposed to be less than 2,500 square feet  
10 in size. Under Section 185-56(B) of the Newburgh  
11 Code, the building department can request of the  
12 Planning Board their ruling as to whether or not  
13 a structure of under 2,500 square feet in size  
14 needs to have site plan review and approval. You  
15 decided at your last meeting it did not, and you  
16 asked me to prepare a resolution to that effect.  
17 You have that resolution before you. You  
18 actually did vote on it at that meeting, and the  
19 vote is reflected. This should be filed and of  
20 course transmitted to the building department.

21 To avoid the headaches administratively  
22 with opening a file and all that, I'm not going  
23 to bill for the preparation of the resolution.  
24 I'll just let it go.

25 CHAIRMAN EWASUTYN: Any questions or



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comments?

MR. GALLI: Thank you, Mike.

MR. MENNERICH: The Boy Scouts appreciate it.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of February 17th.

MR. MENNERICH: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

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

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

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

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DATED: March 9, 2011