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

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In the Matter of

THE MARKET PLACE AT NEWBURGH  
(2004-54)

Route 300

Section 60; Block 3; Lots 41.3,41.4,48,49.1,49.22 & 49.21

Section 71; Block 4; Lots 7,8,9,10,11,12,13 & 14

Section 71; Block 5; Lots 15 & 16

Section 97; Block 1; Lots 13.3 & 20.3

IB Zone

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FINAL ENVIRONMENTAL IMPACT STATEMENT

Date: March 15, 2007

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  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI  
J. LEO GLYNN

ALSO PRESENT: NORMA A. JACOBSEN  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
KENNETH WERSTED  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: TIM MILLER

----- X

MICHELLE L. CONERO

10 Westview Drive

Wallkill, New York 12589

(845)895-3018



THE MARKET PLACE AT NEWBURGH

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3 CHAIRMAN EWASUTYN: Good evening,  
4 ladies and gentlemen. I'd like to welcome  
5 you to the Town of Newburgh Planning Board  
6 meeting of the 15th of March. At whis time  
7 we'll call the Planning Board meeting to  
8 order with a roll call vote starting with  
9 Frank Galli.  
10 MR. GALLI: Present.  
11 MR. BROWNE: Present.  
12 MR. MENNERICH: Present.  
13 MR. O'DONNELL: Present.  
14 MR. PROFACI: Here.  
15 MR. GLYNN: Here.  
16 CHAIRMAN EWASUTYN: Myself present.  
17 The Town of Newburgh Planning Board has  
18 a group of professional consultants that make  
19 recommendations to the Planning Board. At this  
20 time I'll ask that they introduce themselves to  
21 the public.  
22 MR. DONNELLY: Michael Donnelly,  
23 Planning Board Attorney.  
24 MR. CANFIELD: Jerry Canfield, Code  
25 Compliance Supervisor.  
MR. HINES: Pat Hines with McGoey,

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Hauser & Edsall, Consulting Engineers.

MR. COCKS: Bryant Cocks, Consulting  
Planner with Garling Associates.

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

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

MS. JACOBSEN: Norma Jacobsen,  
Secretary to the Planning Board.

MS. CONERO: Michelle Conero, Court  
Stenographer.

CHAIRMAN EWASUTYN: At this point I  
would like to turn the meeting over to Board  
Member Leo Glynn.

MR. GLYNN: Good evening, ladies and  
gentlemen. The Board invites you to join us as  
we salute the flag of our country.

(Pledge of Allegiance.)

MR. GLYNN: Thank you so much. Would  
you please turn off any electronic devices.

CHAIRMAN EWASUTYN: The first item of  
business we have this evening is The Market Place  
of Newburgh. It's the Final Environmental Impact  
Statement. It's located on Route 300, it's zoned

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IB and it's being represented by Bob Wilder.

At this point I'd like to turn to the Planning Board Attorney, Mike Donnelly, to give to the public a brief overview of where we are in the SEQRA process.

Mr. Donnelly.

MR. DONNELLY: Thank you. I know many of you, because you look familiar, have been at various other of the proceedings. As you will recall, in December of 2004 a positive declaration was issued. That required the applicant to prepare a document called a Draft Environmental Impact Statement. That was submitted to the Planning Board and found acceptable in May of 2006 and on a date in June -- two dates in June of 2006 the public hearing on that Impact Statement was conducted. After that hearing was closed the applicant was required to prepare a document called a Final Environmental Impact Statement. That document needs to address to the satisfaction of the Planning Board the issues that were raised in the hearing, or by letter, or from other agencies to a level of the Board's satisfaction. A draft of

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that document has been submitted and reworked on several occasions and is now before the Board yet again.

There are really several steps that remain. It might be helpful if I try to explain what happens from this point forward. The E.I.S., meaning the D.E.I.S. and F.E.I.S. together, are a study of the potential environmental impacts of the project as they have been identified. It has information, it has projections and it has analysis. Once that's found acceptable the Board will issue at a later date a document called a Findings Statement. In the Findings Statement what the Board does is announce, based upon the studies in the Environmental Impact Statement, the specific findings, or conditions if you'd like, that the applicant will need to satisfy in presenting its site plan. It can be a whole host of issues but they are requirements that must be met.

They have announced the mitigation measures. Mitigation measures are conditions, or devices, or requirements that will mitigate or minimize the environmental impacts that were

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identified in the Environmental Impact Statement. The standard of that mitigation is to the maximum extent practicable. That does not mean that the Board will require the applicant to prevent any environmental impacts from occurring. They are to be minimized or mitigated to the maximum extent practicable. That Findings Statement then becomes a yardstick or a template that the Board will use to ensure that the site plan, in addition to the traditional compliance with zoning and adequacy of drainage and so on and so forth, has satisfied the conditions that have been announced in the Findings Statement.

Tonight's task or the issue before the Board is whether or not the F.E.I.S., the Final Environmental Impact Statement, is complete, that it has the adequate studies for the Board to move forward and carry forth those other steps. If that is the determination, a final copy will have to be delivered here, it will be posted on a publicly available website, so on and so forth. There's a mandatory waiting period before the findings can be issued of ten days and there's an outside limit, that I don't think anybody could

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possibly meet, of thirty days for the issuance of the findings, but that would be the next step that the Board has to move forward and work on. So the task at hand is the adequacy of the F.E.I.S. this evening.

CHAIRMAN EWASUTYN: At this point I would like to turn to Tim Miller. We received a revision from your office on the original F.E.I.S. that was presented and I'd like for you to bring us along on that revision, please.

MR. MILLER: Yes. Thank you, Mr. Chairman. We have had a number of work sessions with your Board last month where we received a number of comments as well as meetings with your staff relating to what I would call loose ends that needed to be squared away to make sure that the Final Environmental Impact Statement was being responsive. Some of those related to some activities that the applicant was volunteering to carry out after the Final E.I.S. and the SEQRA process was completed. Some of those related to comments about plant species on the site, certain types of habitat that may exist on the site, none of which, by the way, had been identified by any



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2 of the experts during the course of this lengthy  
3 review but in the interest of caution, in the  
4 interest of safety, the applicant has  
5 volunteered, either through its consultants or a  
6 consultant that he would pay for and be retained  
7 by the Town, to take one final look at these  
8 issues, and in the event that anything was  
9 determined to exist there, to take action to  
10 relocate those materials out of the areas of  
11 potential impact. This relates to the  
12 possibility of rare plants, some habitat for the  
13 Indiana Bat and some habitat in some of the  
14 vernal pool areas or areas that sort of act like  
15 vernal pools. So we've agreed to do that. The  
16 language connected with that is in the Final  
17 Environmental Impact Statement.

18 Also on the side, we understood that  
19 there were questions that had been raised by the  
20 Town as to the sequencing of activities on the  
21 site vis-a-vis construction. We had prepared a  
22 sequencing program. Just to clarify, we use the  
23 term sequencing as opposed to phasing. It's not  
24 our intention that the project will be developed  
25 in phases suggesting phase I approval and then

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2 coming back for a phase II approval and a phase  
3 III approval that might have infrastructure  
4 installed at different times as the project  
5 proceeded. The phasing plan that we've set forth  
6 at a conceptual level shows that we are making a  
7 commitment to install all the infrastructure on  
8 the site at the very start of construction. That  
9 would include all three access locations, subject  
10 of course to getting approvals from outside  
11 agencies such as the DOT. Those accesses would  
12 be open and ready to operate at the time that a  
13 certificate of occupancy was issued for the first  
14 building on the site. In the event that one of  
15 those accesses would not be approved by an  
16 outside agency, keeping in mind that there are  
17 agencies that the Planning Board does not have  
18 authority over and decisions that the Planning  
19 Board does not have authority over, we have  
20 committed to come back to the Planning Board to  
21 amend the site plan that in essence would result  
22 in a smaller project. In that type of amendment  
23 situation I would expect we would show smaller  
24 square footage for the site, less parking areas,  
25 and we would also expect that our buffers would

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be increasing, we would retain more trees on the property and the like.

As you may recall, when we originally submitted our application for this site, in accordance with your zoning designation we had anticipated a large -- what's called a large format retail project. All of the proposed buildings on the site were large format retail.

Through this process in working with the Board and its advisors one of the things that was suggested to us is that we prepare in the frontage of the property near Route 300 a lifestyle center. The lifestyle center we've understood to be an important component of this project, and it's also been made clear to us that no matter what happens in the event that because of an access constraint or an outside agency constraint, should this project get smaller we will retain that lifestyle center. Balter, Wilder has made a commitment under all circumstances that that lifestyle center will be constructed on this site. So I want to underscore that commitment which is in the letter that we provided to the Planning Board. We

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expect that as we proceed through findings and a developer's agreement with the Town and the Town Board, that those commitments will be set forth in a very clear, committed way.

Again, we're here tonight with an eye towards having an adopted Final E.I.S. so that we can get that back out to the agencies and to the public. We believe that we have responded to the questions and comments that have been raised on the open issues. We're certainly happy to address anything that is not clear tonight, but we hope we can get the Final E.I.S. adopted and out there to the public.

CHAIRMAN EWASUTYN: Thank you. At this point any comments from Board Members before I turn it over to our consultants? Frank Galli?

MR. GALLI: Just one clarification on what Mr. Miller just said about the lifestyle center. He made it sound like we brought it to him. I think when the plan was designed he brought it to us. He brought it to us and we moved on it from there. That's all.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No. At this point with

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the plan as presented I don't think we're going to be able to consider what we're looking at tonight.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I'll defer. There's no sense stating stuff that the consultants are going to say.

MR. O'DONNELL: I'll wait for the experts.

MR. PROFACI: Are you committed to a certain number of square feet for the lifestyle center?

MR. MILLER: Yes. In our letter we indicated that at a minimum we would develop 100,000 square feet in the lifestyle center. I want to point out something that's very important. We started this project and the Environmental Impact Statement with a concept of 850,000 square feet. The E.I.S. has basically continued to evaluate impacts of 850,000 square feet. As a result of various iterations, and revisions, and modifications, and adjustments to the plans to address issues such as grading, stormwater management, parking, additional

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2 landscaping in parking areas, and most  
3 importantly most recently the Town's revised  
4 buffer plan, this project is smaller than what we  
5 started out with. The plan that is submitted  
6 with the Final E.I.S. probably shows somewhere in  
7 the neighborhood of 760,000 square feet. So this  
8 plan has in reality actually gotten 100,000  
9 square feet plus or minus smaller than what was  
10 evaluated in the E.I.S. That's the nature of it.  
11 Because SEQRA says we need to do a worst case  
12 evaluation, we continued to evaluate all the  
13 parameters associated with this project at the  
14 850,000. I think if you'll look closely at the  
15 plan that you've got now, and I know Ed Garling  
16 had some comments in that regard, it's actually  
17 somewhere in the neighborhood of 755,000 square  
18 feet and we probably have more parking on the  
19 plan than what the zoning would call for. Part  
20 of that is we don't know what kind of mix we're  
21 going to have of tenants, what kind of restaurant  
22 numbers are going to be there. The restaurants  
23 we find like to have higher rates of parking. So  
24 I wanted to clarify that because I know in Ed  
25 Garling's memo he had brought that point up.

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We're committing to 100,000 square feet in the lifestyle center. The plans and the drawings probably show somewhere around 150,000 square feet in the lifestyle center now. There would be a modest reduction in that.

What I wanted to start to say is we need to anchor this project with large format stores in order to make the lifestyle center work. While there's a possibility that we would be able to attract lifestyle center tenants at the get-go, it hasn't happened in suburban locations such as Newburgh without being anchored by large format retailers. When the large format retailers sign a lease, and they won't sign a lease until we have site plan approval, then we can really sit down with the types of tenants that you'd like to see in the lifestyle center and start getting them to sign on the dotted line and bringing them to the Town of Newburgh. That's how it happens. That's the way the market works. It's not something we have a lot of control over. Wilder, Balter committed under all circumstances he would pursue 100,000 square feet in the lifestyle center. It's a long answer.

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I'm sorry it took so long.

CHAIRMAN EWASUTYN: Leo Glynn?

MR. GLYNN: I have nothing right now.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant, can you begin to talk about planning following up to what Tim Miller was discussing?

MR. COCKS: Yes. The applicant has addressed most of our comments that were involved with the F.E.I.S. He received previous memos and made the corrections, sent us a package. A lot of our work is going to be done after the F.E.I.S. is complete during the site plan review. There are several issues that have to be addressed in the site plan review including the detailed sequence that we're going to receive from them, issuance of a developer's agreement which needs to be hashed out, and then there's other issues involving the building layout and the size of the buildings, traffic circulation patterns. Traffic is going to be fully reviewed by Ken Wersted after this. The issues involving the wetlands and access, grading, the sequencing, landscaping issues and several technical comments



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are going to be addressed later on.

As for the planning of the F.E.I.S., they've addressed all the issues up to this point that we have and our recommendation would be to approve the F.E.I.S. as complete.

CHAIRMAN EWASUTYN: Ken Wersted, you looked at the plan as it relates to traffic, air and noise. Can you give us your recommendation and opinion on this?

MR. WERSTED: Certainly. Regarding air we don't have any more outstanding comments.

Regarding noise we had a number of responses with some references to be added to that. As part of those responses we recommended that as part of the site plan review we review the details of the noise wall, its materials, location, density and so forth. We also recommended that as the tenants come on-line and specific sites are established, that the compactor areas and the loading docks be reviewed at that time for noise impact.

Regarding traffic, the original proposal of realigning Meadow Hill -- Meadow Avenue to a T intersection offset from the

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intersection of Route 52 and Powder Mill Road has been revised. Meadow Avenue is being realigned slightly but to a lesser degree coming into a round-about intersection which will improve the operations over the previous proposal and also reduce the wetland impacts that are in that area.

At a meeting when we discussed the round-about we had also talked about Powder Mill Road around Algonquin Park and discussed implementing some traffic calming measures in that area to address people walking from the park across the street to the parking lot. We asked that that also be referenced in the F.E.I.S.

We had two comments on the site plan at this time. The main noise wall behind buildings C and D should be extended 100 feet in one direction and approximately 200 feet in the other direction and that the conceptual loading dock areas of buildings C and D may have some issues with regard to the loading dock. As the specific site plans get developed we'll review that.

CHAIRMAN EWASUTYN: Thank you.  
Pat Hines, Drainage Consultant.

MR. HINES: We reviewed the project

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with regard to stormwater management. The reports were included in the Draft Environmental Impact Statement. As the project has moved forward some changes to the plans have been made. We continue to concur with the stormwater management methods that are going to be utilized. There will be a more detailed review during site plan once the individual building layouts and stormwater systems are more refined.

    Their use of extended detention ponds, they've added pervious pavement in a portion of the site and other best management practices we found acceptable for the environmental impact analysis. We are beginning now to go through the site plans and look at each individual pipe length of the actual outlet control structures, et cetera for the stormwater detention ponds.

    We've been discussing with the applicant's representative and with the Planning Board representatives as well as the Board tonight the sequencing plan. That will need to be more defined as the site plans progress.

    Issues with grading and infrastructure,

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water, sewer, drainage, access roads will be further clarified.

We just note that each of the access roads need outside permitting from the Army Corp of Engineers, DOT. Each of those agencies have approval authority for each of the access roads, so that will need to be accomplished prior to site plan approval.

We talked at work session regarding the off-site traffic improvements that are going to be included in the Findings Statement, the construction sequencing issue regarding whether the access to be or phase to be accessed is to be constructed and how that's going to work out with the site plan. The applicants have stated there is no phasing plan for the infrastructure, and the site plans do show it as one phase right now. We'll be looking for that to continue on. Should that change they'll have to come back before the Board to evaluate any of those impacts.

With those comments, we've had several work sessions and seen several renditions of the F.E.I.S. and feel it is acceptable and we're ready to move to the Findings stage of the

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process.

CHAIRMAN EWASUTYN: Karen Arent,  
Landscape Architect.

MS. ARENT: The consultants answered a  
lot of previous memorandums and questions. They  
added a lot more detail to the visual analyses.  
They added stormwater infiltration areas for some  
of the vegetation on site. They've added  
sidewalks to Route 52 and Route 300 as well as  
other pedestrian circulation within the site.  
There's a host of other issues that they have  
adequately addressed in the F.E.I.S.

If the project remains as is, the size  
proposed, I believe that the F.E.I.S. is  
complete. If there are any major changes to the  
project, I think that we would have to reevaluate  
that when those are presented to us.

CHAIRMAN EWASUTYN: Okay. Jerry  
Canfield, Code Compliance Officer, would you like  
to add anything at this time?

MR. CANFIELD: I have nothing to add at  
this time.

CHAIRMAN EWASUTYN: Mike Donnelly.

MR. DONNELLY: If I could, perhaps to

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1  
2 put in context the report you've heard from your  
3 consultants, and follow up on Karen's last point,  
4 and echo something Tim Miller said earlier, and  
5 that is the F.E.I.S. addresses this project at  
6 its full buildout potential. For each of the  
7 impacts, traffic, drainage, noise, so on and so  
8 forth, those impacts are addressed. We recognize  
9 that the project will not be built overnight and  
10 that careful review relating to the sequencing  
11 and interim buffering or measures like that will  
12 be the subject of the Findings Statement.

13       Something unspoken in the  
14 recommendation is that if other agency approvals  
15 are not obtained such that the project shrinks,  
16 and some of that is analyzed for instance if you  
17 can only get two access points as opposed to  
18 three the total square footage has to be reduced.  
19 It's conceivable that at that time additional  
20 environmental issues may need to be addressed.  
21 There are no announcements that they'll have to  
22 be but it's conceivable that they will be, and  
23 that finding may be adjusted such that the  
24 reduced square footage is laid out in a different  
25 fashion. None of this may happen and you may

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well obtain all your other agency approvals. Implicit in what is being recommended by the consultants is that the project on a full buildout basis has been addressed in the Impact Statement. Sequencing and a whole other host of issues need to be dealt with in the Findings. If the project is reduced in size, although that may reduce some of the more easily recognizable impacts, it's conceivable others will show up and need to be addressed at that time as well. That's the context in which those recommendations are made.

CHAIRMAN EWASUTYN: Mike, the involvement that the involved agencies will have with whatever action we may take on this, can you explain that to the Board and the public?

MR. DONNELLY: The Town of Newburgh ordinance permits a two-step procedure for site plan approvals, and generally with large projects that have other agency approvals that two-step procedure occurs. That would mean that assuming the Findings were issued, a site plan was submitted that complied with the Findings and we reached the day where an approval was

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appropriate, that approval would be a preliminary one. From that point that would authorize the applicant to then pursue all of its other approvals, and Pat mentioned some earlier. There's Army Corp, DEC, the DOT and other agencies. Those agencies may or may not grant all of the approvals that are necessary. There may be modifications to the plans based upon those, and in some cases the applicant may not get all of the approvals they want, for instance, and it's identified in the Impact Statement, all of the access points. If that happens then the applicant would have to come back with that amended plan, and that's the context in which conceivably some other issues would have to be looked at. In other words, we go from the Findings to a preliminary approval to the other agency approvals and then ultimately to a final approval. That's the kind of hierarchy of steps.

CHAIRMAN EWASUTYN: Thank you for the explanation.

At this point I'll turn to the Board Members for any comments they would like to make at this point. Frank Galli?



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MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I think at this point for the F.E.I.S. as the recommendation I'm satisfied.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: For the plan that's been presented, the F.E.I.S. is appropriate.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: Let me make sure I understand. From where we are today, we've gone through all the documentation and the next step in the process would be for these developers to get permit approvals from the DEC, DOT, Corp of Engineers. If you decide that you want to give this some kind of an approval, it would be contingent upon them getting those approvals and we would say that this is a preliminary stage tonight and when they get the approvals they come back, and then you have, assuming everything goes right, a final approval?

MR. DONNELLY: We have another step before we get to that preliminary and that is assume that you issued the F.E.I.S. tonight, you then have to issue your Findings Statement which

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2 dictates how the plan will have to be amended, if  
3 it needs amendment, to comply with the  
4 conditions, restrictions and mitigation measures  
5 you impose, then it will come back to you.  
6 Conceivably those things could happen at the same  
7 time but it would have to come back, and then you  
8 would issue, if you deemed it appropriate, a  
9 preliminary approval, then they would go to the  
10 other agencies. Let me give you the flavor, and  
11 we talked about this at work session, of an  
12 example of how conceivably those things would  
13 play out. Let's assume that you went to the DOT,  
14 the DEC and the Army Corp and for whatever reason  
15 you were only able to obtain one access point.  
16 Not necessarily likely but perhaps that happened.  
17 Your Impact Statement already identifies that a  
18 ceiling on square footage would then be imposed  
19 on the project. Tim, you kind of referenced this  
20 earlier. If the project shrinks there's  
21 opportunities to lay it out in a different way,  
22 preserve perhaps some woods, handle plantings in  
23 a different way, maybe have reduced land  
24 disturbance for drainage, pull in some more  
25 buffering, and by and large those things are

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2 probably all addressed in the Impact Statement  
3 but it's conceivable some of those might create  
4 another need to look at something. That would be  
5 the advantage of giving the preliminary approval.  
6 That enables the applicant to go to the other  
7 agencies and say this is a plan that the Planning  
8 Board will approve but we need these permits from  
9 your agency. If they get them all, when they  
10 come back for final there's not a lot of  
11 discussion, they get their final approval. If  
12 things change and it's reduced, then the project  
13 would have to be refashioned in some way to  
14 accommodate those reductions. I just want to  
15 make sure we understand we leave open the  
16 possibility that some other environmental issues,  
17 not necessarily the Environmental Impact review  
18 level of formality but some other issues might  
19 have to be looked at. That's the sequence I  
20 think as I see it.

21 MR. O'DONNELL: I got it.

22 CHAIRMAN EWASUTYN: Joe Profaci?

23 MR. PROFACI: I have nothing at this  
24 time.

25 CHAIRMAN EWASUTYN: Leo Glynn?

THE MARKET PLACE AT NEWBURGH

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MR. GLYNN: Thank you, Mr. Chairman. I acknowledge that the applicant has made a concerted effort to present his program with the F.E.I.S. and so on, however there are a couple parts to it that I do not agree with. Considering my position here to look after the health, safety and welfare of the public, I can not vote in favor of it.

CHAIRMAN EWASUTYN: Thank you. Mike Donnelly, Planning Board Attorney, in summary the motion that the Board has before it this evening?

MR. DONNELLY: Should be to issue the Final Environmental Impact Statement, see to the necessary filing of that, the posting on the website, the distribution to the public and the involved agencies.

CHAIRMAN EWASUTYN: Approval of that?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Having heard from our Attorney, Mike Donnelly, I'd move for approval of the Final Environmental Impact Statement and the filing and the circulation as was stated by our Attorney.

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MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. Do I have a second?

MR. GALLI: Second.

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

MR. O'DONNELL: Here again, is this a motion to approve this F.E.I.S. on a preliminary basis? Is that what that --

MR. DONNELLY: No. The F.E.I.S. doesn't have two stages. The ultimate approval -- this is issuing and approving, finding complete the F.E.I.S. It's done once and it has no further review.

MR. O'DONNELL: We can deem this complete even though the approvals from DOT, DEC, et cetera have not been --

MR. DONNELLY: The environmental phase is almost a preliminary or a condition precedent to everything else. They can't go to those other agencies yet until they have a preliminary approval from you. They can talk with them but they can't get the approval.

UNIDENTIFIED SPEAKER: Mr. Chairman --

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CHAIRMAN EWASUTYN: I have a motion on the table.

MR. O'DONNELL: I'm not done if you don't mind.

UNIDENTIFIED SPEAKER: I'm sorry.

MR. O'DONNELL: Patrick.

MR. HINES: After the F.E.I.S. and the findings there's a whole other level of review which we're beginning now, going through the site plan review where we look at each storm drain pipe, each manhole, check the calculations. We're in the process of doing that now. Once the Environmental Impact Statement process is done we'll continue on into that site plan review. The plan sets will grow. The required notes on the plans, details, all those are under review. There's a whole next level prior to getting to a preliminary site plan approval.

MR. O'DONNELL: This is a step along the way? We have a long way to go before there's a final approval for this project?

MR. HINES: Yes. The outside agencies could not issue their approvals.

MR. O'DONNELL: I think it's important

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for us to know where they stand. Thank you.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Frank Galli.

Any further discussion of the motion?

(No verbal 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. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Nay.

CHAIRMAN EWASUTYN: Yes. Motion carried.

MR. MILLER: Thank you.

MR. GORDON: Mr. Chairman, can I ask one follow-up question?

CHAIRMAN EWASUTYN: I would direct that to our Attorney, Mike Donnelly.

MR. GORDON: Eric Gordon on behalf of the Newburgh Mall. What further steps does the public have to participate in this process now that the Board has accepted the F.E.I.S?

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MR. DONNELLY: There's no further requirement of any formal public hearing review. The public is permitted to see and observe, to attend all meetings. Nothing will prevent anyone from writing letters but there are no further public hearings required. The public hearing on the site plan was done simultaneously, and that's optional anyway with the Environmental Impact Statement. There are no further public hearings.

CHAIRMAN EWASUTYN: The one lady in the back.

MS. KISSAM: Sandra Kissam, 1261 Union Avenue. I have two questions. The first question is does this project as it now stands require any zoning changes, any action by the Zoning Board?

MR. DONNELLY: I do not believe that there are any variances or zoning changes identified in any of the documents. This is a permitted use on a bulk table and level that's allowed under the ordinance.

MS. KISSAM: My second question is has anyone done an actual breakdown on the fiscal impacts of this project versus the benefits



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versus the cost to the community on the fiscal side of this project? In my reading of the E.I.S. I had a very serious question about whether or not this project would in fact be fiscally advantageous for this community. Has there been any study by our own economic analyst?

MR. DONNELLY: There is a fiscal analysis, as you just stated, in the Impact Statement that's been found satisfactory by the Board by their issuance of a notice of completion this evening.

MS. KISSAM: I'll just make one comment then. All of the sales tax which would be generated by this project if it actually gets built would not come directly to the Town or to the neighbors to the project, it would go to the County and then it would be distributed according to formulas from the County which might or might not but most likely would not compensate the community for the expenses, which would include such things and fire, police, et cetera, et cetera, not to mention the expenses which don't have a quantification but actually probably could be calculated which is traffic jams at

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2 various times, traffic tie ups and so on. I  
3 think that I trust that at some point along this  
4 process there will be a pause here because our  
5 experience in other communities shows that this  
6 is going to be an expensive -- forgetting  
7 everything else, an expensive project for the  
8 community.

9           One of those things which has not  
10 been considered is the reduction in property  
11 values for all of the surrounding homes. I think  
12 that these homeowners should right now go to the  
13 assessor and start thinking about how they're  
14 going to change their assessment and reduce their  
15 taxes because their properties will not be  
16 worth -- if this project is built, if, will not  
17 be worth what it is today. This project is not  
18 economically, in my opinion, beneficial for our  
19 community.

20           CHAIRMAN EWASUTYN: At this point I  
21 would like to thank everyone for participating.

22           MR. PARKER: Could I ask one procedural  
23 question in reference to your comment?

24           CHAIRMAN EWASUTYN: In reference to  
25 what comment was that?

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MR. PARKER: John Parker for Save Open Space.

CHAIRMAN EWASUTYN: What was my comment? Sir, sir. What was my comment? I haven't given you the floor.

MR. PARKER: I was going to say it. The comment was that upon the filing of documents and the making available to the public, my question just was SEQRA does provide us at least ten days between this decision and the Finding Statement. My only question is if the Board would be so kind as to how that ten days start when we know these documents are available. There's been a little bit of a lag. We talked with Mr. Donnelly about it a couple times and he's been very gracious. The documents for the F.E.I.S. will be publicly available tomorrow. There's a question here when we can get them.

MR. DONNELLY: Let me ask what I was going to ask Tim afterward or tomorrow on the phone.

CHAIRMAN EWASUTYN: We did get correspondence -- we got an e-mail from a resident of the Town of Newburgh, I believe it

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was two days ago, Eleanor Doddard, and we're in the process of addressing that request.

MR. DONNELLY: It seems to me the easiest way and the way that has proved the most satisfactory to most residents is to provide that document on a CD in PDF format rather than have to come to the Town Hall to look at the document, People with the time and the staff with the copying costs. CDs are relatively inexpensive. I was going to ask the applicant whether it would be possible to have at least several copies, we can always make more, of the F.E.I.S. on CDs in PDF format to be available for the public.

MR. MILLER: Sure.

MR. DONNELLY: That certainly worked with the last go around of documents. The question becomes, since Tim now said sure, when? I know you need to re-collate this because you've been working on the pages as we finalized it. What is the timeframe in which that can be done?

MR. MILLER: Today is the 15th. I would say by the 20th I could have twenty CDs in Town Hall.

MR. DONNELLY: That would be good.

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Your likely date for the filing and environmental notice publication is in that same timeframe?

MR. MILLER: Yes. I would say by the end of next week everything would be filed and noticed in the ENB and so forth.

MR. DONNELLY: People can begin to torture Norma by the end of next week.

MS. JACOBSEN: Just to make an announcement, we are vacating the building and we're packing tomorrow. Our phone lines have been shutdown and they will not be available until next Tuesday. We are located -- what is the address?

MR. CANFIELD: 211 South Plank Road.

CHAIRMAN EWASUTYN: Jerry, will you explain for the public what Norma is beginning to introduce? Jerry Canfield is the Code Compliance Officer.

MR. CANFIELD: As Norma was explaining, the Code Compliance Department, Planning and Zoning, which is located at 308 Gardnertown Road right next door, will be renovating our building. We will vacate that building Saturday and relocate at 211 South Plank Road. We will be

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closed Monday, open for business again on Tuesday. The reason for the relocation is the renovations are taking place in the building which are minor in nature. All of our phone numbers will remain the same, fax numbers and e-mail addresses are all the same. Public notifications went in The Sentinel, The Mid-Hudson Times and also The Times Herald Record. We apologize for any inconvenience. We will be closed, like I said, Friday and Monday to allow us to pack, move and unpack and so to speak retool and we'll be back open for business Tuesday morning.

MR. DONNELLY: Then in ninety days they get to do it all over again.

MR. CANFIELD: Unfortunately yes. By June hopefully we'll be back in our building.

CHAIRMAN EWASUTYN: I thank you all for your participation this evening.

MR. O'DONNELL: Can I make a comment, please? In reference to Sandra Kissam's comments about economics of this project, I share her thoughts and I want her to know and the other people in this room to know that I will do

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2 everything within my power to satisfy myself  
3 about the economics of this project so it doesn't  
4 have an unfavorable impact on the citizens of our  
5 Town.

6 CHAIRMAN EWASUTYN: Thank you.  
7 I think at this point I'm closing the  
8 meeting.  
9 (Time noted: 7:47 p.m.)

10

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

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

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25 DATED: March 24, 2007

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

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In the Matter of

KRISHNA K. DIXIT, M.D./OFFICE ADDITION  
(2005-40)  
338 Meadow Avenue  
Section 66; Block 1; Lot 3  
IB Zone

----- X

SITE PLAN  
ARCHITECTURAL REVIEW

Date: March 15, 2007  
Time: 7:50 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI  
J. LEO GLYNN

ALSO PRESENT: NORMA A. JACOBSEN  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
KENNETH WERSTED  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: GREGORY J. SHAW

----- X

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





KRISHNA K. DIXIT, M.D.

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CHAIRMAN EWASUTYN: The next item of business this evening is Krishna Dixit, M.D. office addition. It's a site plan and architectural review, it's located on Meadow Avenue in an IB zone and it's being represented by Greg Shaw.

MR. SHAW: Thank you, Mr. Chairman. We are before you tonight for site plan review. We are not in a position to ask for architectural review nor have we submitted anything to your Board tonight. We'll have to do that at a later date.

We originally came before this Board in the latter part of 2005 for a referral to the Zoning Board of Appeals for an addition to the property of Dr. Dixit which is at 338 Meadow Avenue. It's on the north side of the street. It's in an IB zone requiring a 40,000 square foot lot. This was a lot that was subdivided and created back when that area was a B Zone, therefore the lot is relatively small compared to the IB requirements. It's four-tenths of an acre, as I said, as opposed to a full acre. Because of the IB requirements we went before the

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Zoning Board of Appeals to get variances to allow the creation of an addition. We were unsuccessful a couple times and by finally reducing the size of the addition we were able to get the necessary variances to put us in compliance. If you look at the zoning schedule, we got a variance for a minimum side yard one, minimum side yard both and minimum rear yard depth.

With respect to parking, we are compliant. We're obligated to provide twelve spaces and we have provided twelve spaces.

What we are asking for is approval of an addition to Dr. Dixit's building. His existing building is 1,178 square feet. That also happens to be the exact size of the addition that we are requesting that this Board approve.

You'll notice on the left-hand side of the drawing there's an existing conditions plan which shows the existing building, the existing parking lot and other site features.

What we are looking to do is renovate the entire parking lot, put in site lighting, landscaping and also tie in to the Town of

KRISHNA K. DIXIT, M.D.

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Newburgh sanitary sewer system which is available  
to us on Meadow Avenue. I notice that one of the  
comments generated by your consultants is that we  
need approval from the City of Newburgh, and we  
still need that approval. I corresponded to the  
town engineer with the necessary information in  
the latter part of January and I have not  
received anything yet, so hopefully that will be  
forthcoming. It is not a high generator of  
wastewater and I do not see any -- I don't  
anticipate any problems with hooking up into the  
town sewer system.

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Thank you. That's a brief overview.  
I'll answer any questions the Board or your  
consultants may have.

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CHAIRMAN EWASUTYN: Mr. Shaw, I don't  
know if we can even take action this evening on  
the site plan, Mike, until we get a sign off from  
the City of Newburgh.

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MR. DONNELLY: Well, you can issue a  
declaration of significance, you can --

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CHAIRMAN EWASUTYN: This is a Type II  
action.

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MR. DONNELLY: Oh, it's Type II. I

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thought it was Unlisted. That's easy then.

CHAIRMAN EWASUTYN: It is a Type II.

MR. DONNELLY: You could grant preliminary. Remember we got the clarification memo from Mark Taylor? While you can't grant final approvals, you can grant preliminary approvals subject to City sewer approval.

CHAIRMAN EWASUTYN: Just for clarification, --

MR. SHAW: Okay.

CHAIRMAN EWASUTYN: -- it's a procedural step that we've been following all along with the sewer agreement with the City.

MR. SHAW: Okay.

CHAIRMAN EWASUTYN: Final comments from Bryant Cocks, Planning Consultant.

MR. COCKS: Pretty much in the last revision we obtained everything that we needed. In the narrative 1,128 square feet instead of 1,178. That just needs to be clarified.

The comment about the sewer flow letter.

The ARB process is coming later.

We just need a surveyor's seal and

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signature for final approval.

He addressed the parking by reducing the size of the building instead of getting a variance.

That was it for us.

CHAIRMAN EWASUTYN: Pat Hines.

MR. HINES: Our only comment is this has an existing well but I'm under the impression there's a water main in front.

MR. SHAW: No. There's no water on Meadow Avenue. I rode through there this afternoon and there are no hydrants whatsoever.

MR. HINES: Okay. There are some fairly large buildings there.

CHAIRMAN EWASUTYN: Akon originally developed the buildings closer to Route 300 if that's what you're thinking of.

MR. HINES: Construction Contractors is there.

MR. CANFIELD: I checked the assessment records on that based on Pat's comments. It's in a consolidated 1 water district which does not necessarily mean there's a main in front of the building.

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MR. SHAW: There's not a hydrant on Meadow Avenue. If there's water we'd be more than happy to hook into it. I don't think it's there.

MR. HINES: We'll check further into that. If it's not there the well is fine. Between now and final we can review that.

Stormwater, we noticed there's a slight increase in impervious surfaces. This is going to be curbed and they're adding a catch basin. It doesn't meet the DEC thresholds for stormwater management requirements.

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

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: Karen Arent.

MS. ARENT: I apologize, Greg. I think my assistant faxed this memo to somebody else. We'll fax it to you tomorrow. Did you receive my memo?

MR. SHAW: If it has five items on it, no.

MS. ARENT: So you did. Okay. I think you should consider adding landscaping along the

KRISHNA K. DIXIT, M.D.

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2 sides to further screen the four parking spaces  
3 on the west side from the side view, the angle  
4 view when you're traveling down Meadow Road.  
5 My comments are very minor. To  
6 minimize landscaping maintenance, show the post  
7 on the side of the planting bed perhaps with new  
8 plants around it if you're going to have the  
9 concrete footing extending above ground.  
10 The sign for the site should be shown  
11 on the plans and landscaping should be proposed  
12 to show -- create an attractive street scape.  
13 This is a question I have for the  
14 Board. Should sidewalks be considered along  
15 Meadow Avenue?  
16 The building and the sign will need  
17 architectural approval.  
18 CHAIRMAN EWASUTYN: Greg, there's an  
19 existing sign there. Do you plan on changing the  
20 sign?  
21 MR. SHAW: I really can't answer that.  
22 That's really going to be dependent on how my  
23 client feels. We're going to have to educate him  
24 with respect to the architecture of the addition  
25 and how it's got to mesh with the original



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2 building, that it has to be reviewed by your  
3 Board. I will bring that up in my discussions  
4 with him but I don't know what he plans on doing  
5 at this point.

6 CHAIRMAN EWASUTYN: When do you think  
7 you may be coming back for ARB?

8 MR. SHAW: I would think that -- I have  
9 the comments from the consultants, I'm awaiting  
10 the letter. I don't even know if the town  
11 engineer has submitted the letter to the City of  
12 Newburgh yet. Usually I get a copy of it. I  
13 have not. It may be just sitting on Jim  
14 Osborne's desk. I may be four to eight weeks  
15 away from having that letter. I'd like to think  
16 when I get it I'll come back to this Board, wrap  
17 up the loose ends and do architectural review at  
18 that time. I don't see any reason to come back  
19 to the Board until I have the letter.

20 CHAIRMAN EWASUTYN: At which time then  
21 we can do a final determination on the site plan  
22 and we can also do the ARB.

23 MR. DONNELLY: Yes.

24 CHAIRMAN EWASUTYN: I'll poll the Board  
25 Members to see if they want to see a sidewalk on

KRISHNA K. DIXIT, M.D.

1 48  
2 Meadow Avenue. Frank Galli ?  
3 MR. GALLI: No.  
4 CHAIRMAN EWASUTYN: Cliff Browne?  
5 MR. BROWNE: No.  
6 CHAIRMAN EWASUTYN: Ken Mennerich?  
7 MR. MENNERICH: Not for just this one  
8 lot.  
9 CHAIRMAN EWASUTYN: Ed O'Donnell?  
10 MR. O'DONNELL: No.  
11 CHAIRMAN EWASUTYN: Joe Profaci?  
12 MR. PROFACI: No.  
13 MR. GLYNN: No.  
14 CHAIRMAN EWASUTYN: I'll move for a  
15 motion to grant preliminary approval for the  
16 Krishna Dixit, M.D. office addition.  
17 MR. GLYNN: So moved.  
18 MR. MENNERICH: Second.  
19 CHAIRMAN EWASUTYN: I have a motion by  
20 Leo Glynn. I have a second by Ken Mennerich.  
21 Any discussion of the motion?  
22 (No verbal response.)  
23 CHAIRMAN EWASUTYN: I'll move for a  
24 roll call vote starting with Frank Galli.  
25 MR. GALLI: Aye.

KRISHNA K. DIXIT, M.D.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

MR. SHAW: Thank you. When I have the  
loose ends pulled together I'll come back before  
the Board. Thank you.

(Time noted: 7:56 p.m.)

CERTIFICATION

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 24, 2007

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

----- X

In the Matter of

LAXMI ESTATE II, L.L.C.  
(2006-23)  
5277 Route 9W  
Section 40; Block 2; Lot 20  
B Zone

----- X

SITE PLAN

Date: March 15, 2007  
Time: 7:57 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
- EDWARD T. O'DONNELL, JR.
- JOSEPH E. PROFACI
- J. LEO GLYNN
- ALSO PRESENT: NORMA A. JACOBSEN
- MICHAEL H. DONNELLY, ESQ.
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT
- KENNETH WERSTED
- GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: JAMES R. GILLESPIE

----- X

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

LAXMI ESTATE II, L.L.C.

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CHAIRMAN EWASUTYN: The next item of business is the Laxmi Estate II, L.L.C. site plan. It's located on Route 9W in a B Zone and it's being represented by Mr. Santabarbara.

MR. GILLESPIE: It's Mr. Gillespie. Jim Gillespie.

CHAIRMAN EWASUTYN: Thanks.

MR. GILLESPIE: Good evening. Like I said, for the record I'm Jim Gillespie from Bohler Engineering.

Tonight we'd just like to go over some of the things -- some of the changes we've made recently, update the Board as to the status of some of our approvals, go over some of the comments we received from staff, supply the Board with some additional information, some preliminary photographs and renderings of the building, and basically get some more direction from staff and the Board to hopefully have a more complete submission next time and move forward in a positive direction here.

Some of the things we had done for the last submission, there was a lot of concern over the bank in the back, it's very steep, as far as

1  
2 the impacts of this development on the bank.  
3 Since our last submission we had moved the entire  
4 project away from the bank so that there was not  
5 going to be any impact on it whatsoever. No  
6 grading would be required in the bank. Since  
7 that submission I talked with the Chairman on the  
8 phone and some of the requests for a retaining  
9 wall were not necessarily due to the need for a  
10 retaining wall as far as an engineering need or  
11 impacts to the bank, the request for the  
12 retaining wall were really more aesthetic  
13 concerns. So I had talked to -- with me is Mr.  
14 Patel, he's the owner and operator of the  
15 facility, or will be hopefully. He recognized  
16 the Board's and the staff's concerns and the  
17 Town's concerns of the importance of Route 9W as  
18 a corridor, the aesthetic importance, and their  
19 desire for this wall back here. So we're going  
20 to update our plan. We've updated the rendering  
21 to include a decorative split faced block  
22 retaining wall. It would be approximately three  
23 feet high along the whole back of the property  
24 with a cap block and some landscaping around it  
25 to further soften that bank in the back. That's

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one of the changes.

The other changes, previously we had a retail facility on the building. There was a lot of concern over whether adequate parking would be supplied for that. Just to limit the impact of the development on this lot we've removed that retail building and we're just looking for the stand alone Dunkin Donuts facility.

There were some concerns over landscaping. We've added some additional landscaping throughout the site. I know there's still concerns over whether it's enough. We can certainly talk about that further. We had added a strip of green space in the front possibly for some flower beds or some small shrubs.

Just some other technical comments. We had moved the handicap spot a little closer to the building.

We talked about the retaining wall.

We had recently received a lot of staff comments over the past couple days, some over the past couple hours. We're certainly, you know, working on addressing those. A lot of them were technical in nature.



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Just to give you an update on some of our approvals, we received -- DOT has basically signed off on this access. We don't have a permit in hand but they were going to get us a letter. It will be forthcoming very shortly. Hopefully we'll have the permit by the next meeting.

As far as the Department of Health, they've deferred to DEC because we're doing a SPDES permit. They said DEC may contact them, they may not as far as in the review process. Basically our review process will be with DEC for the SPDES permit for the sand filter.

We've received comments and we're preparing a resubmission. There's really nothing major, no major technical comments thus far.

As far as architecturally, we don't have a complete architectural package prepared thus far but we do have some preliminary photographs and renderings that we would like to at least share with you at this point prior to our final submission. I apologize for not having more copies. You're all very familiar with the -- I would assume you're all familiar with this

1  
2 architectural style. It's very similar to Mr.  
3 Patel's store on Broadway. The only major  
4 difference is there won't be a Baskin Robbins in  
5 this facility. There is also a material board,  
6 and I believe this is required in our final  
7 submission. Correct?

8 MS. ARENT: Yes.

9 MR. O'DONNELL: Is this the same size  
10 as the building on Broadway?

11 MR. GILLESPIE: This is slightly  
12 different. It's about 1,200 square feet smaller.  
13 About 1,200 square feet smaller.

14 MR. O'DONNELL: And the size is?

15 MR. GILLESPIE: This size is  
16 2,221 square feet.

17 MR. O'DONNELL: So the part on this  
18 that is glass with awnings would be what we would  
19 see? Is that going to be --

20 MR. GILLESPIE: This would face -- yes.

21 MR. O'DONNELL: This is it?

22 MR. GILLESPIE: That's it.

23 MR. O'DONNELL: Okay.

24 MR. GILLESPIE: One of the major  
25 comments that we received, and we definitely

1  
2 would like to get some clarification on, is we  
3 had -- all along our applications had -- our use  
4 had always been that this was a restaurant. We  
5 received a comment that due to eliminating the  
6 retail, a stand-alone fast food establishment  
7 would not be allowed in this district. I have  
8 limited involvement in this project. Mr.  
9 Santabarbara had done previous meetings. It's my  
10 understanding -- we had received that comment I  
11 mean literally as I was going out the door so I  
12 hadn't had a chance to research it. I talked to  
13 Mr. Patel. It's my understanding that the ZBA  
14 had already made a determination that because we  
15 didn't have a drive-through on this site that  
16 this is a restaurant and it is an allowed use  
17 here. I want to really get some clarity on that  
18 before we leave, or at least within the next  
19 couple days. Maybe someone else has a little  
20 more recollection.

21 MR. DONNELLY: Have you gotten us  
22 copies of that Zoning Board decision?

23 MR. GILLESPIE: Like I said, I have  
24 limited involvement. This is Mr. Patel's  
25 recollection of that.

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MR. DONNELLY: They typically do a written decision.

MR. GILLESPIE: It's more of a question I'm asking, if you guys have any recollection of that. I will certainly research my files as soon as I return to the office but that is his understanding. I just didn't know if that rang any bells.

CHAIRMAN EWASUTYN: Bryant, Ed Garling mentioned this evening about the fact that they now removed the retail space, that the classification of this has now changed. Can you speak on Ed's behalf?

MR. COCKS: In the Zoning Ordinance in the B District it says, number 17, eating and drinking facilities or food preparation shops not offering full table service, which is what I would assume Dunkin Donuts is, it's permitted with retail and personal service stores, health club and fitness facilities and convenient stores with or without gasoline filling stations, shopping centers, theaters or mini-malls. So this doesn't have any of those uses attached to it. I wouldn't think a Dunkin Donuts is a full

1  
2 table service because they don't have waiters or  
3 waitresses.

4 MR. GILLESPIE: To define a restaurant  
5 you would have to have full table service?

6 MR. COCKS: In the B District it says  
7 eating and drinking facilities or food  
8 preparation shops not offering full table  
9 service, then the restaurants and conference and  
10 banquet facilities is a separate accessory use.  
11 So I don't know.

12 MR. O'DONNELL: Is this structure going  
13 to have tables?

14 MR. GILLESPIE: Yes. There's not a  
15 drive-through. The main reason that there's not  
16 a drive-through is we would be considered a  
17 restaurant.

18 CHAIRMAN EWASUTYN: Mike, I think we  
19 need to --

20 MR. DONNELLY: There is a note from May  
21 of 2006 that there was some use variance in  
22 effect. No one has ever gotten that decision to  
23 let us know. I think what Bryant has read to you  
24 from the definition says that a food service  
25 establishment without full sit-down service is a

1  
2 permitted use, and if you don't have a drive-in  
3 that doesn't shift it to that fast food use. So  
4 if you're saying what I think, with or without a  
5 use variance it looks like it is an allowable use  
6 now.

7 CHAIRMAN EWASUTYN: No, I think he's  
8 saying it's different. I think what Bryant is  
9 saying is without having the retail facility  
10 adjoining --

11 MR. DONNELLY: An accessory use. Okay.  
12 But if there has been a use variance granted, and  
13 that's what you told us back in May, then that  
14 will be the authorization for the use. If a use  
15 variance was granted it's going to be the  
16 decision of the Zoning Board, you just have to  
17 get us a copy.

18 MR. PATEL: There was a determination  
19 by the Zoning Board. Unfortunately I just found  
20 out about it an hour before I came here.  
21 Otherwise I do have the determination of the  
22 Zoning Board, a copy of that. My understanding  
23 is basically they found that it is not a fast  
24 food restaurant and noted it as a bakery facility  
25 and it is permissible in the zoning.

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MR. DONNELLY: We need to see that decision.

MR. PATEL: I understand when that rendering was made that it was supplied to the Board.

MR. GILLESPIE: So assuming we can supply that documentation, that comment would go away.

MS. JACOBSEN: I might even have it in the file.

CHAIRMAN EWASUTYN: We'll have them supply it, Norma. With all the boxes already -- you're going to be boxing up tomorrow.

Mr. Gillespie, continue.

MR. GILLESPIE: And then again we would just like to get some clarification on some of these other issues. Use was a big one.

I believe, Ken, if the DOT is -- we can supply you with DOT documentation that would certainly alleviate most of your concerns.

MR. WERSTED: Correct.

CHAIRMAN EWASUTYN: Karen had a number of landscaping and lighting issues. Maybe it's best that we turn it over to some of the

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consultants and maybe we can go through some of their issues individually.

Do you want us to stay as a Board and then you'll let us know when you're done?

MR. GILLESPIE: I'm sorry. I'm sorry.

CHAIRMAN EWASUTYN: Give us a sense of direction. I myself would like to go home. If you want to take over, which you seem to be doing a good job of, we won't be able to take any action, we'll all be gone, but you can continue to talk and whoever is here to listen will listen.

MR. GILLESPIE: I'm assuming --

CHAIRMAN EWASUTYN: You're assuming a lot. Why don't you catch your breath. Why don't you catch your breath now.

MR. GILLESPIE: Thank you.

CHAIRMAN EWASUTYN: Thank you. I appreciate that. Since you left off with Karen Arent we'll talk with Karen. I appreciate your willingness to discuss the wall, the steepness of that bank. I drove by there the other day. The erosion currently on that bank is monumental. Monumental.



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MR. GILLESPIE: We can certainly stabilize it.

CHAIRMAN EWASUTYN: I don't know how you're going to stabilize it. It's a task that runs -- it's a task.

I'll turn it over to Karen as far as the height of the retaining wall and whether three feet will satisfy the stabilization. We'll go from there. You've done a great job.

MR. GILLESPIE: Thank you.

MS. ARENT: I'll leave the height issues to Pat as far as the stabilization of the wall, as far as how high the wall needs to be a stable bank. It's obviously eroding.

One of my previous comments is it didn't look to me like the topography on your map reflects what's out there. That was a previous comment. You might want to have that re-shot so you really know what you're dealing with.

First of all, I think the landscaping proposed on the site is so minimal. We haven't approved anything like this in the last five years. There are no street trees, hardly any trees throughout the site. There needs to be a

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2 lot more of that. On other projects we do put  
3 street trees. I know the visibility of your  
4 sign, your establishment is a primary concern.  
5 What you can do is put larger trees in that are  
6 branching up very high and this way you see right  
7 underneath them to your establishment. You just  
8 have to coordinate the height of your sign with  
9 the height of the trees. If you don't put the  
10 trees in big at first, you can cut the lower  
11 branches as they grow and it would only block a  
12 little. When they're growing you cut the lower  
13 branches. I know you probably want a fairly high  
14 sign since it's fast moving traffic. All that  
15 you can take into consideration and still provide  
16 street trees along Route 9W.  
17         The sidewalks in front of the building  
18 should be at least six feet wide so people can  
19 walk comfortably on them.  
20         The architecture of the building in my  
21 opinion definitely needs some landscaping to help  
22 soften it.  
23         I don't think the two-foot bed is  
24 enough. I think like for example in these areas  
25 it would be nice to put beautiful high plants.

1  
2 You might need a bed five-feet wide, and that  
3 will affect the site plan. That's why I  
4 suggested we look at this to see if more needs to  
5 be done on the site plan to help soften the  
6 building.

7 Then the proposed planting in the front  
8 of the site will not screen parked cars. That's  
9 something we want to do. We don't want to screen  
10 your building or your establishment, we want to  
11 screen all the grills of the cars. In other  
12 places they put stonewalls, and that would really  
13 be a nice feature. That helps to create the  
14 corridor sense in the Town of Newburgh. So we  
15 would suggest that you think about that. Another  
16 option is to put some stonewalls and plantings.  
17 So look at really screening those cars. These  
18 plants you're proposing are way too low for that.

19 MR. GILLESPIE: What about like a berm,  
20 a high landscaping berm?

21 MS. ARENT: Sometimes what we've done  
22 on other projects is so that the cost of the wall  
23 is a lot less expensive we've done a one-sided  
24 wall with the berm on the back side, your parking  
25 lot side, so when you're driving down the road

1  
2 you see the stonewall and from the back of your  
3 establishment you just see a planted slope. You  
4 have the space there so you could do something  
5 like that.

6           There's a bunch of notes that need to  
7 be put on the drawings which I don't have to go  
8 over.

9           MR. GILLESPIE: I just had a question.  
10 Are those standard maintenance notes?

11           MS. ARENT: Yeah. We've been requiring  
12 them on most of the -- on all of the projects.

13           The warrantee information, the Town of  
14 Newburgh holds a two-year landscape bond. We  
15 want the landscaper that's installing them to be  
16 aware of that so he plants a really good soil.  
17 That's one of the whole reasons behind the  
18 two-year maintenance is to get good soil so the  
19 plants really live. In the past the soil wasn't  
20 good and the plants kept dying. It was a losing  
21 situation. We're trying to make it a better  
22 situation. That's it.

23           CHAIRMAN EWASUTYN: Bryant Cocks.

24           MR. COCKS: We have nothing further.  
25 They pretty much addressed everything else.

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CHAIRMAN EWASUTYN: Pat Hines.

MR. HINES: I know you have my comments. Your resubmittal stated there was a stormwater management report done. I did not receive that.

MR. GILLESPIE: I apologize. I thought that was included.

MR. HINES: If you could just copy us on your submissions to the DEC. Since it's a surface discharge the DEC has to review that. It's going to be discharging to the on-site catch basins and ultimately the DOT's collection system. If you could keep the Board apprised of that situation.

We mentioned the slope. I agree with Karen that it's kind of a bowl shape if you drive by there and your topography is just showing it kind of going across. It needs to be stabilized. If you're not going to disturb it, then some topsoil and seeding may be appropriate.

MR. GILLESPIE: We were going to propose that stabilization mat and --

MR. HINES: There's been some problems along that whole corridor using that.

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MR. GILLESPIE: We've had a lot of success with that.

MR. HINES: I've seen it work but there's been problems with the soil along that whole corridor. If you can get it stabilized it will be a benefit for everyone involved. If you want to see some failures, go to the firehouse. That was a difficult site, too.

The rest of our comments are technical in nature.

I just noted, and I think Ken Wersted picked it up, the truck routing plan shows the trucks driving over the landscaping.

MR. GILLESPIE: That's a mountable curb and a section of pavement --

MR. HINES: It looks green on that plan.

MR. GILLESPIE: Is this where you're talking about?

MR. HINES: Yes.

MR. GILLESPIE: Right here, the truck turning plan. I think I have a copy of that.

MR. HINES: Ken will take a look at it.

MR. GILLESPIE: I'll take another look

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at it. It kind of looks like on a black and white drawing it might be a landscaped island but it's really meant to be --

MR. HINES: I got Karen to look into that now.

MR. DONNELLY: Maybe they're driving over an area that should be landscaped.

MR. GILLESPIE: We kind of need it to get in there.

MR. HINES: I know you have the rest of my comments. They're all technical in nature and can be addressed on future submissions.

MR. GILLESPIE: Okay. Sounds good.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: You're going to be able to drive around the back of this building all the way around to the other side?

MR. GILLESPIE: Absolutely.

MR. GALLI: There's going to be parking in the back?

MR. GILLESPIE: There is not parking in the back.

MR. GALLI: The only thing I would

LAXMI ESTATE II, L.L.C.

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really like to see is on 9W in the corridor, like they said, a stonewall to make it really nice because it's going to be the start of the rest of 9W. This is going to be the first project that's going to be seen. I've seen some really nice Dunkin Donuts and I've seen some really ugly ones like 32. I think you can make this real nice. Hyde Park Dunkin Donuts is beautiful. It's landscaped nice. In Albany I've seen one. I think we're looking for the nice one.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm good.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I would also encourage you to not have an overly big sign. I think the people that travel this road, 9W, are a lot of commuters mostly. They'll know where this Dunkin Donuts is. They don't need a great big sign to be attracted to it.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: Frank, you stole my thunder. I think it's worth reiterating that this approach in the front of your structure with the stonewall accommodation is something that



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we're going to look for throughout that 9W corridor as we have done over here on 52 and Union Avenue. So you just happen to be the first one in line, Mr. Patel. We're going to get you lots of company as time goes on. That's it.

MR. PROFACI: Nothing for me.

MR. GLYNN: Will you have enough access there for your trailer deliveries to get around the corner of the building and also to get back out on 9W when they're exiting the property without crossing over in the other lane?

MR. GILLESPIE: Yes. We prepared a truck circulation plan. We submitted that to DOT for their review. We definitely took a hard look at that to make sure we can do that.

MR. GLYNN: Thank you.

CHAIRMAN EWASUTYN: Ken Wersted.

MR. WERSTED: Just a couple comments. On the truck issue, on sheet 9 there's a detail showing a truck traveling into the site circulating around the back. It does use the mountable curb area on the northern entrance. My only comment on that is just to differentiate it from the regular pavement so the driver doesn't

1  
2 see that and think they can drive up on there  
3 obviously and they're mounting it themselves.  
4 My first comment was about the  
5 entrances will be addressed with DOT  
6 correspondence, a sign off from them.  
7 The trip generation appeared  
8 reasonable. We just noted from our information  
9 noon peak hours are a lot less than the mornings  
10 and the afternoon peak hour is significantly  
11 less.  
12 There are sites to the north and south.  
13 If those were ever to be developed further it may  
14 benefit to have a cross easement to each of those  
15 sites to allow those users to patronize the  
16 Dunkin Donuts without having to get back out onto  
17 9W, drive one driveway up and then pull in.  
18 That was the extent of our comments.  
19 The only additional one based on what I  
20 heard tonight was just my concern about the  
21 landscaping and the development of the front of  
22 the site. My current opinion there is it may be  
23 possible with the landscaping and the stonewall  
24 and so forth. Just keep in mind that that area  
25 of Route 9W is on a slight curve and that the

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sight distances looking particularly to the north would be my concern, that any landscaping and so forth out in front might infringe on that distance.

MR. GILLESPIE: We'll have to look at a happy medium there as far as how close it gets to the right-of-way I think.

MR. O'DONNELL: Mr. Chairman, I would like to suggest that this project be introduced to a consultants' meeting. It seems to me there's a lot of issues and probably these folks sitting down will get it all hammered out and then come back here with a finished product. I would like to suggest that's what's done here.

CHAIRMAN EWASUTYN: I have a motion from Ed O'Donnell to set this up for the next available consultants' meeting. Do I have a second?

MR. MENNERICH: Second.

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

(No verbal response.)

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

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MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

MR. O'DONNELL: That will make the  
thing move a lot faster.

CHAIRMAN EWASUTYN: Do you need us any  
more?

MR. GILLESPIE: Thanks for your time.

(Time noted: 8:20 p.m.)

CERTIFICATION

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 24, 2007

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

----- X

In the Matter of

W.W. GRAINGER - BRANCH #555  
(2006-60)

300 Corporate Boulevard  
Section 95; Block 1; Lot 65  
IB Zone

----- X

AMENDED SITE PLAN  
ARCHITECTURAL REVIEW

Date: March 15, 2007  
Time: 8:20 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI  
J. LEO GLYNN  
ALSO PRESENT: NORMA A. JACOBSEN  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
KENNETH WERSTED  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: SAUL SILVERMAN

----- 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 is W.W. Grainger - Branch 555. It's an amended site plan and it's here also for architectural review. It's in an IB Zone and it's being represented by Saul Silverman.

Saul, just for the record, we don't accept things the night of the meeting.

MR. SILVERMAN: Okay. These were just the copies of all the consultants' changes.

CHAIRMAN EWASUTYN: In essence we don't. I'll take them but we don't. As you once mentioned earlier that you're going to be representing The Market Place and so on and so on, there's just a procedure to all this. We like to get them before so we can review them.

MR. SILVERMAN: These are the same, Mr. Chairman, that you got. I just made them smaller.

CHAIRMAN EWASUTYN: Fine.

MR. SILVERMAN: They're the same ones that you got.

CHAIRMAN EWASUTYN: Let's start with the site plan first.

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MR. SILVERMAN: Yes, sir. As per the last meeting there were consultants' comments and Board's comments and we've tried, through the revision of the narrative that we submitted that the Board has, to address all of the issues that were open. Some of the consultants' comments did not require us to answer them. We were working mainly with Karen Arent. There were two or three submissions back and forth on adjustment of plants, actual plants and where they were exactly standing which is replicated on those drawings I supplied Karen I think to use for yesterday's workshop.

The Board had asked for a traffic count which we did submit. That was done by the employee, by the manager of the facility itself. There is no measurable affect on the traffic that is a consideration during the busy times of this place.

We also corrected on the narrative that the Board had requested us to stipulate about being a contractor supply. You must be a registered contractor with a registration at the store in order to purchase there. It is not open



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to the general public.

So we think we've addressed all of the items that the Board requested. I guess we're here tonight to ask to be put onto the -- to a public hearing.

MR. O'DONNELL: Licensed contractor. I used to, in another lifetime, own a store and I wasn't licensed but I could go into Graingers and buy stuff. They would recognize that.

MR. WILLIAMSON: Mike Williamson, branch manager of the Elmsford, Westchester facility. My colleague was unable to attend. We are an industrial supply so we do sell to the business-to-business community. There's not necessarily a need to be a licensed contractor but if you do own a business you can purchase from us. It's not residential.

MR. O'DONNELL: I thought maybe you were making an exception for me.

MR. WILLIAMSON: We might.

MR. O'DONNELL: Yes is the right answer.

CHAIRMAN EWASUTYN: I'll turn it over to our consultants for their final comments.

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Bryant Cocks, Planning Consultant.

MR. COCKS: Our only comment was that we haven't received any comments from the fire department yet. They sent it out. We don't know if we're going to get something back or not, so --

CHAIRMAN EWASUTYN: Frank, do you want to comment on that one? This is what, Coldenham Fire Department?

MR. CANFIELD: That's Winona Lake Fire District.

MR. GALLI: Orange Lake Fire District.

MR. CANFIELD: I did forward this. I also did take a ride out there. It's two-sided accessibility. I don't see it as being an issue but we can still wait for their comment.

CHAIRMAN EWASUTYN: At some point in time I guess we can always consider that to be a condition.

MR. DONNELLY: This may have to go to the County; right? How far is it from 17K?

CHAIRMAN EWASUTYN: You're right. So far it hasn't been referred to the County.

Saul, how close are you to 17K? Are

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you within 500 feet?

MR. CANFIELD: On two sides is  
Corporate Boulevard and then their parking lot.

MR. SILVERMAN: It's close, Mr.  
Chairman. There's a two-acre lot between them.

CHAIRMAN EWASUTYN: It's within  
500 feet?

MR. HINES: Yeah.

MR. CANFIELD: Of 17K, yes.

MR. DONNELLY: It has to go to the  
Orange County Planning Department before we could  
act.

CHAIRMAN EWASUTYN: We missed that then  
early on.

MR. O'DONNELL: Are you sure it's  
500 feet?

MS. ARENT: It looks like it could be  
600 feet if this map is to scale.

CHAIRMAN EWASUTYN: Can we take a  
moment to scale it out?

MS. ARENT: It says it is to scale.

CHAIRMAN EWASUTYN: It isn't to scale?

MS. ARENT: It says it is.

CHAIRMAN EWASUTYN: It is to scale.

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MS. ARENT: 1 to 1,000 scale. It seems to be about 600 feet.

MR. GALLI: Being an industrial park and an existing building it has to go before the County?

CHAIRMAN EWASUTYN: I guess because it's an addition and it goes under 239.

MR. DONNELLY: I'm sorry, Saul. We didn't notice it in January. If it's within 500 feet of a State highway it must go to the Orange County Planning Department for their report.

MR. SILVERMAN: Can I ask if that can be done as a condition?

MR. DONNELLY: We don't have jurisdiction to act. It's a jurisdictional --

MS. ARENT: We're working on it right now. We have a survey.

MR. GLYNN: Can I ask a question, Mr. Chairman? Since we already have a building on that property that obviously has gone through the process ahead of time and this is just an addition to it without material change, I don't see where going to Orange County would be

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required.

CHAIRMAN EWASUTYN: Mike?

MR. DONNELLY: It's a site plan application within 500 feet. I'll look at the statute.

MR. SILVERMAN: Mike, if I can ask, the original approval on this was to allow for expansion in the entire area.

CHAIRMAN EWASUTYN: It's 35 feet.

MR. GLYNN: The two faces of the building are in a straight line 180 degrees, so it's no closer to 17K than the other building.

MR. SILVERMAN: That's correct.

Mr. Chairman, I guess -- I'll wait for them.

CHAIRMAN EWASUTYN: We're waiting to hear from Mike Donnelly.

MR. DONNELLY: I just want to see what the language is.

CHAIRMAN EWASUTYN: While Mike is looking up the language to see if it is a requirement or not, I'll poll the Board Members to see if they want to have a public hearing on this. Frank Galli?

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MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. O'DONNELL: No.

MR. PROFACI: No.

MR. GLYNN: No.

CHAIRMAN EWASUTYN: That's why it's important that you don't start out the dialogue by suggesting you want a public hearing and you allow the Planning Board to do what they are responsible for doing.

MR. SILVERMAN: I apologize, Mr. Chairman. I wasn't aware of the fact you could do it that way.

CHAIRMAN EWASUTYN: Again, I'm glad we're being entertained by professionals this evening who are --

MR. SILVERMAN: Have a sense of humor.

CHAIRMAN EWASUTYN: I guess it was a joke when you presented it.

MR. DONNELLY: 239 says that prior to any decision a municipality must refer to the county planning department for comment for actions within 500 feet of a State highway.

W.W. GRAINGER - BRANCH #555

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Number 5 on that list says all site plans for non-residential use. So it's a mandatory referral because it's within 500 feet of a highway.

CHAIRMAN EWASUTYN: Keeping that thought in mind, what action, if any, can we take this evening?

MR. HINES: It's Type II so there's no SEQRA.

CHAIRMAN EWASUTYN: There would be a consistency determination. We can do that.

MR. DONNELLY: We can certainly do that. If you didn't give it conceptual approval you could do that.

CHAIRMAN EWASUTYN: We've already given it conceptual approval. I have that we've given it conceptual approval.

MR. GALLI: Can we do ARB?

CHAIRMAN EWASUTYN: Can we do ARB this evening?

MR. DONNELLY: ARB would not be prohibited. I don't know what benefit that gives.

CHAIRMAN EWASUTYN: Mike, can we now

W.W. GRAINGER - BRANCH #555

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grant the SEQRA consistency determination?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Bryant, do you want to bring us along on that motion?

MR. COCKS: In 1987 there was a whole Environmental Impact Statement done for Corporate Boulevard which included this site. We have a couple other sites that came in and they did a SEQRA consistency document which just reaffirmed the findings from the previous E.I.S. Since the environmental impacts were already studied, this would just layout that they are still consistent from twenty years ago.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to grant a SEQRA consistency for the W.W. Grainger - Branch 555 amended site plan.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a



W.W. GRAINGER - BRANCH #555

1 87  
2 roll call vote starting with Frank Galli.  
3 MR. GALLI: Aye.  
4 MR. BROWNE: Aye.  
5 MR. MENNERICH: Aye.  
6 MR. O'DONNELL: Aye.  
7 MR. PROFACI: Aye.  
8 MR. GLYNN: Aye.  
9 CHAIRMAN EWASUTYN: Myself. So  
10 carried.  
11 Before we get into ARB I'll move for a  
12 motion from the Board to refer this to the Orange  
13 County Planning Department.  
14 MR. GALLI: So moved.  
15 CHAIRMAN EWASUTYN: I have a motion by  
16 Frank Galli.  
17 MR. O'DONNELL: Second.  
18 CHAIRMAN EWASUTYN: A second by Ed  
19 O'Donnell. I'll ask for a roll call vote  
20 starting with Frank Galli.  
21 MR. GALLI: Aye.  
22 MR. BROWNE: Aye.  
23 MR. MENNERICH: Aye.  
24 MR. O'DONNELL: Aye.  
25 MR. PROFACI: Aye.

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MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Saul, if you would get plans to Bryant Cocks, then Bryant will make that referral to the Orange County Planning Department.

Now if you'll walk us through your presentation for the ARB.

Karen, you've had a chance to look at this?

MS. ARENT: Yes.

MR. SILVERMAN: This is a schematic of the four existing building elevations showing, first of all, where the outline is of the extension. The extension is just to the rear of the building and it's carried through in exactly the same format. This is basically the rendered elevations of the four sides. The existing, which is the front side now, the entrance is over here. We've revised the entrance to their prototype entrance and included and shown all the landscaping that Karen had requested and we agreed with and is now shown on these drawings. There are existing trees and there are the new

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plantings that are shown.

This is the opposite end, the elevation where the expansion actually takes place. Basically it's this unit that's brought out further. These are the three new trees that are to be planted. This is existing conditions and this is the new addition. They are basically the same elevation. As far as the two long sides of the building, this is the existing south elevation and this is our addition with all the new planting that's going in.

The same thing happens on the other elevation, the north elevation. This is what exists up to the two loading doors. We've carried through the format in exactly the same landscaping pattern and we've utilized and added the shrubs in the locations where Karen requested them.

MR. O'DONNELL: Does the south location face 17K?

MR. SILVERMAN: Yes.

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: Karen, do you have anything you would like to add to this?

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MS. ARENT: The only thing I would add is that in previous conversations it was mentioned that in a previous approval the building was a more earth tone color. I didn't know if the Board wanted to consider that again. These are the colors for Grainger.

MR. O'DONNELL: It looks pretty good now. It's going to look like it looks now.

MS. ARENT: With the landscaping you hardly notice the building.

CHAIRMAN EWASUTYN: I guess what they are really saying is originally you were going to have it as earth tone and you agreed to earth tone and then you painted it white or something like that. Do you have any idea what it's going to be painted like?

MR. SILVERMAN: The same color. It's this white color. These are the current -- the Chair informed me about what happened.

CHAIRMAN EWASUTYN: As Ed O'Donnell sometimes says, can we have your cell phone number in case it's wrong we'll call you up.

MR. SILVERMAN: You can have my cell phone number.

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MR. O'DONNELL: I like to make it personal, that's all.

CHAIRMAN EWASUTYN: Comments from the Board Members on the ARB?

MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: It's interesting, in the handouts you gave us it's more of an earth tone.

MR. SILVERMAN: Well, God bless the computers. It depends upon which printer it goes on. What's on the screen sometimes doesn't color quite that way. That's why we had attached some color chips that I believe the Board has on one of the boards that gave all of the exact colors right from the Grainger catalog.

MR. MENNERICH: Marilyn's dress or something.

MR. SILVERMAN: If somebody can tell me how that color was named.

MR. O'DONNELL: You won't be able to tell the new from the old when this thing is done. Are you going to paint?

MR. SILVERMAN: It's all going to be

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2 the same color. We're going to match into those  
3 colors. It's only the two sides that are  
4 affected. In fact, they can't do it because  
5 they're going to take it upon themselves to paint  
6 that facade.

7 CHAIRMAN EWASUTYN: Joe Profaci?

8 MR. PROFACI: I'm good.

9 CHAIRMAN EWASUTYN: Leo?

10 MR. GLYNN: I'm fine.

11 CHAIRMAN EWASUTYN: I'll move for a  
12 motion from the Board to grant architectural  
13 approval for W.W. Grainger warehouse addition.

14 MR. PROFACI: So moved.

15 MR. O'DONNELL: Second.

16 MR. BROWNE: John, before we vote, the  
17 comment about matching the paint, if that should  
18 go down as a thing they're going to do if it  
19 doesn't match.

20 MR. DONNELLY: Okay.

21 CHAIRMAN EWASUTYN: I have a motion by  
22 Joe and I have a second by Ed. Any further  
23 discussion of the motion?

24 (No verbal response.)

25 CHAIRMAN EWASUTYN: I'll ask for a roll

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call vote starting with Frank.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

MR. DONNELLY: Just what's being  
matched so I know how to express it?

MR. BROWNE: The addition is going to  
match the existing or vice versa. It's going to  
match.

CHAIRMAN EWASUTYN: I'm going to set  
you up for the next available meeting, which  
would be the 19th of April, at which point, today  
being the 15th, we will work diligently to kind  
of get that to the County and get a response back  
because they have thirty days. We'll be able to  
take final action on the site plan.

MR. SILVERMAN: The only question I  
have, Mr. Chairman, and I guess I have to address  
it to Mike is when this site plan was approved it  
was approved with this as an expansion. It must

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have gone to Orange County at that particular point.

MR. DONNELLY: It may have been at a time when it didn't have to, and that's okay. That would be fine if you were just here for ARB. I think you're here for site plan; right? I don't know enough about the history to address it. Why would you come here for site plan if the site plan was already approved?

MR. SILVERMAN: The original approval said that when the expansion was planned they would come back for site plan.

CHAIRMAN EWASUTYN: I think really what happened Saul, I think what we did is we looked at it conceptually -- I'm not looking to hold you up. I think we looked at it and there were even motions from Ken and it wasn't really spelled out. We looked at it conceptually but we didn't tie it together as far as the actual approval.

MR. SILVERMAN: Does the County have the thirty-day limit or else it's deemed approved?

MR. DONNELLY: If they don't give us a report you don't need to wait any longer.



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MR. SILVERMAN: The only other item was again for the fire marshall or your -- the fire headquarters. I know that was submitted because we did that -- on January 12th that went in there.

CHAIRMAN EWASUTYN: Do you want to comment as far as a response? Jerry, how would we retrieve a response from the fire department?

MR. CANFIELD: I'll follow up on it.

MR. SILVERMAN: Thank you.

MR. CANFIELD: Did you say --

MR. SILVERMAN: January 12th.

MR. CANFIELD: What was submitted on the 12th?

MR. SILVERMAN: These plans were sent to them.

MR. CANFIELD: Okay.

MS. JACOBSEN: I was going to say I spoke with Charlie, he's the commissioner. He said they had a meeting and Mr. Ferguson -- they went over four or five plans including the Laborer's Union and different ones and Mr. Ferguson was -- Gary Ferguson was supposed to get written responses out and never followed up.

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MR. CANFIELD: I'll follow up so we have a written response.

MR. SILVERMAN: Would the April 19th meeting be for a final approval?

CHAIRMAN EWASUTYN: Just to see you.

MR. SILVERMAN: I appreciate that.

CHAIRMAN EWASUTYN: So you can give us a sense of direction in what direction you want us to go in.

MR. SILVERMAN: That's the direction.

CHAIRMAN EWASUTYN: We'll wait until the 19th to decide. Let us know. That would be the action.

MR. SILVERMAN: Thank you.

MS. ARENT: I have one minor comment on the revised landscaping. You're saying sixteen inches. We need a minimum height of eighteen inches.

MR. SILVERMAN: That's no problem. We'll get little dots.

CHAIRMAN EWASUTYN: Saul, it's important that you get the plans to Bryant tomorrow, though.

MR. SILVERMAN: I will.

W.W. GRAINGER - BRANCH #555

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How many sets do you need?

MR. COCKS: I'll send mine out so it's  
out there so the thirty days will be met.

MR. SILVERMAN: Suppose we send it  
e-mail?

MR. COCKS: I can't e-mail to them.

MR. SILVERMAN: Can I give you these?

MR. COCKS: Yes, you can.

MR. SILVERMAN: Thank you.

(Time noted: 8:43 p.m.)

CERTIFICATION

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 24, 2007

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

----- X

In the Matter of

EXECUTIVE SESSION

----- X

BOARD BUSINESS

Date: March 15, 2007  
Time: 8:44 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  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI  
J. LEO GLYNN

ALSO PRESENT: NORMA A. JACOBSEN  
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

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2 CHAIRMAN EWASUTYN: We have two items  
3 of business this evening before we leave. Before  
4 we take the first item I'd like to move for a  
5 motion to enter into executive session to talk  
6 about personnel matters.  
7 MR. PROFACI: So moved.  
8 MR. MENNERICH: Second.  
9 CHAIRMAN EWASUTYN: I have a motion by  
10 Joe Profaci and a second by Ken Mennerich. I'll  
11 ask for a roll call vote starting with Frank  
12 Galli.  
13 MR. GALLI: Aye.  
14 MR. BROWNE: Aye.  
15 MR. MENNERICH: Aye.  
16 MR. O'DONNELL: Aye.  
17 MR. PROFACI: Aye.  
18 MR. GLYNN: Aye.  
19 (The Board entered into Executive  
20 Session at 8:44 p.m.)  
21 (Planning Board meeting resumed  
22 at 8:52 p.m.)  
23 CHAIRMAN EWASUTYN: I'll move for  
24 a motion to resume the Planning Board  
25 meeting.

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MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: And myself aye. So carried.

(Time noted: 8:53 p.m.)

CERTIFICATION

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 24, 2007



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

----- X

In the Matter of

MARTIN VANDYK  
(2005-22)

Architectural Review

----- X

BOARD BUSINESS

Date: March 15, 2007  
Time: 8:53 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI  
J. LEO GLYNN

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

----- X

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

MARTIN VANDYK

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2           CHAIRMAN EWASUTYN: We received from  
3 Ken Lytle the other day -- Karen requested that  
4 we receive some kind of photographs for the  
5 Vandyk building when we approved the site plan  
6 last week. Now it's here for ARB. We have those  
7 photos in front of us. I guess what we're doing  
8 is we're approving the photos. Correct?  
9           MS. ARENT: What I would do is just ask  
10 for shutters. It's up to you guys. It looks a  
11 little boring. I was just thinking of asking for  
12 shutters.  
13           CHAIRMAN EWASUTYN: Do you want to  
14 specify the color shutters?  
15           MS. ARENT: How about that green.  
16 Cranberry is good, too. We can give him a  
17 choice, cranberry, hunter green.  
18           CHAIRMAN EWASUTYN: I'll move for a  
19 motion to approve the ARB for Martin Vandyk  
20 subject to the applicant putting up shutters on  
21 all the windows. All the windows and the color  
22 is --  
23           MS. ARENT: Cranberry or hunter green.  
24           CHAIRMAN EWASUTYN: -- cranberry or  
25 hunter green.

MARTIN VANDYK

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MS. ARENT: Two shutters on each window.

CHAIRMAN EWASUTYN: Karen Arent will approve the color with Ken Lytle.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. Any discussion of the motion?  
(No verbal 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. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

Could you contact Ken in the morning because there was no need for him to be here?

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: Any other

MARTIN VANDYK

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discussion from the Board?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board work session of March 15th.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 9:00 p.m.)

CERTIFICATION

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 24, 2007

