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

----- X

In the Matter of

METRO PCS - QUAKER STREET
(2010-01)

409 Quaker Street
Section 11; Block 1; Lot 143
AR Zone

----- X

PUBLIC HEARING
SITE PLAN & SPECIAL USE PERMIT

Date: March 18, 2010
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: DANIEL LAUB

----- X

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

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METRO PCS QUAKER STREET

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MR. BROWNE: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of March 18, 2010.

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

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on the business at hand, including SEQRA determinations as well as code and planning details. I would ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of

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METRO PCS QUAKER STREET

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Newburgh.

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

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

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

MICHAEL MUSSO: Mike Musso, HDR,
Wireless Consultant.

MR. BROWNE: At this time I'll turn the
meeting over to Joe Profaci.

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

(Pledge of Allegiance.)

MR. PROFACI: Please switch off all
your cellular phones. Thank you.

MR. BROWNE: This evening we have on
the agenda three public hearings. Before we
start the first one, I'd ask our Attorney, Mike,
to give a brief overview of the purpose of the
public hearings.

MR. DONNELLY: The purpose of a public
hearing is to ensure that before action is taken
by the Planning Board on certain specified types

1 of applications, that the public have an
2 opportunity to bring issues to the attention of
3 the Planning Board that the Planning Board may
4 not have thought of or that their consultant team
5 has not brought to their attention. Therefore,
6 after the applicant makes a presentation
7 regarding each of the projects, the Chairman will
8 ask members of the public if they wish to speak.
9 When called upon we would ask you to please stand
10 up, come forward if you could, keep your voice up
11 and begin by telling us your name so the
12 stenographer can get it down properly, spelling
13 it would be helpful, tell us where you live in
14 relation to the project and direct your comments
15 to the Board. If you have a question and it's
16 appropriate for it to be answered, the Chairman
17 will either direct the question to the applicant
18 or to one of the consultants sitting at the table
19 over here employed by the Town.

21 MR. BROWNE: Thank you. The first item
22 of business is a public hearing for a site plan
23 and special use permit being represented by Metro
24 PCS. It's the location of a cell tower at 409
25 Quaker Street.

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METRO PCS QUAKER STREET

Before we start with that, I would ask Ken Mennerich to read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185-57 Section K and Chapter 168-16 Section A, on the application of Metro PCS - Quaker Street for a site plan and special permit for the installation of cellular phone antennas at 409 Quaker Street on premises Quaker Street in the Town of Newburgh, designated on Town tax map as Section 11; Block 1; Lot 143, AR zone. Said hearing will be held on the 18th day of March 2010 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated February 26, 2010."

MR. BROWNE: Thank you. Per code, nineteen certified mailings were sent out

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METRO PCS QUAKER STREET

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notifying of this public hearing, sixteen were returned. It was also properly advertised in both The Mid-Hudson Times and The Sentinel.

CHAIRMAN EWASUTYN: Thank you. At this time I'll turn to Dan, the attorney for Metro PCS for Quaker Street, and ask him to give his presentation, please.

MR. LAUB: Good evening, Mr. Chairman, Members of the Board and Members of the Public. My name is Daniel Laub, I'm an attorney from Cuddy & Fedder here on behalf of Metro PCS.

Metro PCS is a wireless carrier, much like the ones you're familiar with, AT&T, Verizon. Metro PCS is a new entrant into this New York market. It's been around. Mr. Chairman, you asked us at one point the history of Metro PCS. Corporation wise it's a little convoluted. Initially it was around since about 1992. It's been in its currently format since about 2002. Metro PCS is currently on air in many markets around the country, on the west coast California, the south Texas, Florida, Mississippi, Alabama. It's also active in the northeast, Boston, Philadelphia. This is part of Metro PCS's build-

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METRO PCS QUAKER STREET

out of the network.

It wouldn't be on for a little while until a lot of sites are built and service could be provided. I think at least in the New York Metropolitan area immediately it is on in the five boroughs where you can have service. The idea is Metro PCS needs to provide service along the New York State Thruway corridor.

As per Town code, the first preference for a location of a wireless facility is to find locations which are already existing, whether they be typically monopoles or lattice towers. Sometimes there are other structures or buildings. So as part of our application we located the tower at 409 Quaker Street.

The overall tower is approximately 150 feet in height. There are already other carriers on there including Sprint and Nextel. Metro PCS would put in panel antennas at the 127 feet and 6 inch height. In addition, located at grade there would be a small bump out of the existing compound where there would be a 7 by 14 concrete slab for equipment in order to run the antennas. That equipment is generally the size of a small

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refrigerator or something like that. Overall the compound expansion -- it's an existing compound with a chain-link fence around it. The expansion would be approximately 8 by 28 feet out onto the south side of the compound.

The nature of these facilities is such that there are radiofrequency emissions coming from the antennas. Those are regulated under guidelines and rules from the FCC. We've demonstrated compliance in our report that combined even with the other antennas on here and evaluated under a worst case scenario, we would still be under one percent of the limit that's allowed. So it's a very minimal amount of emissions.

Other than that, it's really not a site that has any other kind of site planning impacts such as they are. It wouldn't emit any smoke or gas or anything like that.

In terms of traffic or anything, probably a technician going in there once a month or so to just make sure things go okay, to make sure all the equipment is in working order and there's no problems with it.

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There are tie ins to this facility so it is monitored 24/7 from a remote location. If there are equipment failures or things, Metro PCS is notified.

Again, this is just simply a co-location on an existing tower. We're seeking to do this in order to build out our network and looking to do this with basically the highest priority under Town code.

I believe that would be in summary, Mr. Chairman. If there's anything else you would like me to elaborate on, I'd be happy to.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to the public for any questions or comments. As Mike Donnelly said earlier, if you'd please raise your hand and give your name for the record.

(No response.)

CHAIRMAN EWASUTYN: Okay. At this point the public has not acknowledged the opportunity to make any comments, so I'll turn to the consultant for the Town and the Town of Newburgh Planning Board, Mike Musso, to give his final review of this application.

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MR. MUSSO: Thank you, Mr. Chairman.
For the record, Mike Musso with HDR working on behalf of the Town of Newburgh Planning Board. I would like to go very quickly through our report dated March 11th where we've done a full review of the application that's been submitted, including the site visit, including requesting to add some additional materials and clarifications on the application.

As noted, there's an existing monopole at the address of 409 Quaker Street. This is visible near the Plattekill rest area on the Thruway. Sprint and Nextel have existing antennas. Metro PCS is proposing to co-locate, which means using that pole, not increasing the height, not appreciably increasing any kind of radiofrequency emissions.

We looked at the structural capacity of the pole including the proposed equipment. The proposed equipment includes six panel antennas and they're each about four feet in length. They'll be located about 126 feet off the ground. The ground-based equipment as part of Metro's proposal, if you look here at the entire outline

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of the existing, it would be four approximately appliance size cabinets, battery backup, radio switching channels and what not. Everything would be contained in this area.

I think an attractive portion of this application is, number one, indeed the code here does favor co-location rather than building a new tower somewhere else or in another neighborhood. It's also a very large tract. Although it's in the AR district, the tower is fairly remote from residential areas, homes, schools and things like that.

As part of this application we did review all the background information that was provided. The FCC, or Federal Communications Commission, was noticed. Metro PCS, like all wireless carriers, has to meet certain criteria and thresholds in order to operate and keep their licensing.

As I noted, we did go on a site visit confirming the existing conditions, where the equipment would be located. I have some photos appended to the report also. We did ask for some confirmation on their operations and the

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structural assessment that was done. We have a structural review letter also appended to our March 11th report. Certainly this existing tower has more than enough capacity to accommodate the new facility.

We looked at radiofrequency emissions. They're compared to a health and safety factor known as the maximum permissible exposure limit or MPE. It's noted really all the general public areas to be well below that threshold, meaning 24/7 exposure for a lifetime essentially. In fact, on the order of one percent.

We also wanted to confirm where else Metro is interested in the area and how this particular facility would fit into their overall network. We talked a little bit about that in our report.

And then finally we did prepare a list of inclusions and recommendations, some of which I think the Board will consider tonight and possibly discuss.

Security fencing for the ground-based equipment should be maintained should this application be approved.

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Color matching, which could be done making sure that anything that's installed will be routed within the poles and the colors would match the existing pole as best they can. Also screening around the small increase to the ground-based equipment area. That's something that could all be discussed tonight. We also note that the operations as regulated in the Town code should be adhered to.

We also recommend, because of the co-location nature of the site, that baseline field readings be done to confirm those MPE calculations.

Last, if there's any other comments from other Planning Board consultants, that they be considered as well.

I think that's a summary of our report, Mr. Chairman.

CHAIRMAN EWASUTYN: I'll turn to the Board Members for their comments. Cliff Browne?

MR. BROWNE: Nothing at this point.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have no questions.

CHAIRMAN EWASUTYN: Joe Profaci?

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METRO PCS QUAKER STREET

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MR. PROFACI: No comment.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: None.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: I'll turn to our
advisors and consultants. Jerry Canfield?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: Pat Hines, Drainage
Consultant?

MR. HINES: We have nothing on this.

CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant?

MR. COCKS: I have no comment.

CHAIRMAN EWASUTYN: Karen Arent,
Landscape Architect?

MS. ARENT: I looked at the screening
on this project, and the only place that we would
want -- the only place that screening makes sense
is the Thruway side. On the other side, you
really can't see anything from Quaker Avenue or
any points of view. In my personal opinion I
don't think that screening is necessary.

CHAIRMAN EWASUTYN: An opportunity for

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METRO PCS QUAKER STREET

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the public to comment at this point.

(No response.)

CHAIRMAN EWASUTYN: At this point I'll move for a motion to close the public hearing on Metro PCS - Quaker Street for the site plan and special use permit.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

At this point I'll turn to the Planning Board Attorney, Mike Donnelly, for an outline for conditions in the resolution for the site plan

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METRO PCS QUAKER STREET

and special use permit for Metro PCS - Quaker Street.

MR. DONNELLY: I've entitled the resolution site plan, special permit as well as ARB for the equipment itself. It's in the usual fashion of these resolutions.

The first condition is your standard ARB, Architectural Review Board, approval which does include the requirement that the antenna mounting structures and cables be color matched to the existing tower colors. That was one of Mike Musso's recommendations. Next, if the removal bond security is not fully in place, then the balance up to the \$75,000 required would need to be posted. I carried forth the recommendation of Mike that there would be routine inspections of the antennas, the equipment pad and the signage in the area of the tower. A requirement of coordinating with the tower owner and the other users for the annual NIER level certifications. Any proposed increase in the tower antenna size or number or size of ground-based equipment cabinets shall be approved by the Town prior to implementation of such changes.

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METRO PCS QUAKER STREET

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Next, because this is a co-location the radiofrequency field test after the tower is operational shall be required.

I take it from what Karen told us we will not need a landscape security bond --

MS. ARENT: No.

MR. DONNELLY: -- because there's no need for screening.

Finally, your standard condition which states that no structures or facilities not shown on the site plan may be constructed on site.

CHAIRMAN EWASUTYN: Any comments from Board Members in reference to the resolution presented by Attorney Mike Donnelly for both ARB approval, site plan approval and special use permit?

MR. BROWNE: None.

MR. MENNERICH: None.

MR. PROFACI: No.

MR. FOGARTY: No comments.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board then to grant final approval for the site plan, and special use

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METRO PCS QUAKER STREET

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permit, and ARB subject to the conditions stated in the resolution presented by our Attorney, Mike Donnelly.

MR. MENNERICH: So moved.

MR. WARD: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

(Time noted: 7:16 p.m.)

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

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

DATED: April 9, 2010

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

----- X
In the Matter of

METRO PCS - VALLEY VIEW DRIVE
(2010-02)

Valley View Drive
Section 15; Block 1; Lot 10
R-1 Zone

----- X

PUBLIC HEARING
SITE PLAN & SPECIAL USE PERMIT

Date: March 18, 2010
Time: 7:16 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: DANIEL LAUB

----- X

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

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2 MR. BROWNE: The next order of business
3 is the second proposal for Metro PCS at Valley
4 View Drive, a public hearing again for a site
5 plan and special use permit.

6 I would ask Ken Mennerich again to read
7 the notice of hearing.

8 MR. MENNERICH: "Notice of hearing,
9 Town of Newburgh Planning Board. Please take
10 notice that the Planning Board of the Town of
11 Newburgh, Orange county, New York will hold a
12 public hearing pursuant to the Municipal Code of
13 the Town of Newburgh, Chapter 185-57 Section K
14 and Chapter 168-16 Section A, on the application
15 of Metro PCS - Valley View Drive for a site plan
16 and special permit for the installation of
17 cellular phone antennas at the existing Valley
18 View Drive cell tower on premises Valley View
19 Drive in the Town of Newburgh, designated on Town
20 tax map as Section 15; Block 1; Lot 10, R-1 zone.
21 Said hearing will be held on the 18th day of
22 March 2010 at the Town Hall Meeting Room, 1496
23 Route 300, Newburgh, New York at 7 p.m. at which
24 time all interested persons will be given an
25 opportunity to be heard. By order of the Town of

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METRO PCS - VALLEY VIEW DRIVE

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Newburgh Planning Board. John P. Ewasutyn,
Chairman, Planning Board, Town of Newburgh.
Dated February 22, 2010."

MR. BROWNE: Thank you. Again per code,
twenty-four certified mailings were sent out for
this application, fourteen receipts were
returned. This was advertised in both The Mid-
Hudson Times and The Sentinel properly. This is
in order, John.

CHAIRMAN EWASUTYN: Thank you.

Again I'll turn the meeting over to Dan
Laub, the attorney for the Metro PCS - Valley
View Drive application.

Dan.

MR. LAUB: Thank you, Mr. Chairman.

This application is very similar to the
other one we just presented. It is a co-location
on an existing tower. In this instance the tower
is a lattice tower which also hosts a number of
co-locaters including Omnipoint, T-Mobile,
Verizon, Nextel. Metro PCS would be the fourth
carrier in.

In this instance Metro PCS's equipment
would be at the 137 foot level. Again there

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would be equipment cabinets at grade on the concrete slab. It would all fit in within the existing compound and there would be no compound bump out.

Again as with the other application, the emissions levels for this are well below the FCC standard. Again it's under one percent cumulatively, taking into consideration all the carriers and the worst case scenario. We sought to do this in accordance with the code because it is the highest priority in a co-location.

We have been asked to replace -- there's a few -- there's some existing screening alongside the existing compound. Some of the existing landscape screening has died. I think there's at least three specimens. We're going to replace those as part of our proposal.

CHAIRMAN EWASUTYN: Thank you.

At this point again we turn the meeting over to the public for their questions or comments.

(No response.)

CHAIRMAN EWASUTYN: Once again I'll turn it over to Mike Musso who represents both

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the Town and the Planning Board in review of this application.

MR. MUSSO: Mr. Chairman, thank you again. Members of the Public. Thanks for having me here again.

Again, the similarities are there between the two applications that we'll discuss tonight. This is off of St. Mary's Hill, sometimes known as Valley View Drive. Just to point out here, this is a plan view area of the existing equipment compound. This triangle here is actually a plan view of the existing communications tower. Metro PCS's equipment, you can see, is smaller than some of the other carriers' equipment and will be located off to one side.

There's no appreciable change in the height of the existing 150 foot tower.

There's really no appreciable change to the fence compound. That's in a semi-wooded area off of valley View Drive.

As was noted and I think the Landscape Architect will speak to, there are some changes to the plantings which I believe Metro PCS would

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be amenable to.

As with the other application, we did visit the site. We looked at the ground-based area and also the antenna.

We've looked at the radiofrequency emissions, which are cumulative again. We always want to see what a worst case would be. We're looking at Verizon, Nextel, Verizon and T-Mobile, and then Metro PCS being the second array down potentially if approved.

Note that the ark analysis also included some whip antennas that are operated by Central Hudson off of a more conventional telephone pole if you will on the access drive up to the back compound area.

So again, the RF analysis, the health and safety analysis as I call it, was conservative, was cumulative. As expected with tower sites like this, that maximum permissible exposure is well below, probably on the order of one percent of what would be allowed.

We did receive some structural information. As always we like to review the structural analysis for existing towers, existing

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2 monopoles. A tower in this case. At the present
3 time we've asked for some revisions to the
4 structural analysis. One is that several months
5 ago this Board had looked at a dish antenna that
6 was proposed and approved by Verizon, and at that
7 time HDR did a full analysis. We want to make
8 sure that all these structural analyses, however,
9 are appropriately coordinated, the appropriate
10 design is used, the appropriate safety factors
11 are added and all dead loads and any changes to
12 the tower are incorporated.

13 Mr. Chairman and the Board, at this
14 time we are not in receipt of that structural
15 package, but that is something certainly we will
16 review when received.

17 The recommendations that we include are
18 very similar as to the ones the Planning Board
19 Attorney went through. We do of course recommend
20 baseline field readings, given the co-location
21 nature of the site, to confirm those conservative
22 calculations.

23 As far as color matching and some of
24 the aesthetics and the Town code compliance
25 issues, those are also in our report as well.

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I think maybe the only other thing to discuss before any questions or comments would be on the architectural landscape items.

CHAIRMAN EWASUTYN: Karen, do you want to comment at this point?

MS. ARENT: About twelve trees were planted four or five years ago. Three of them died. We just ask for replacement of the three that died.

CHAIRMAN EWASUTYN: Comments from Board Members. Cliff Browne?

MR. BROWNE: No -- yes. On this application we talked about the structural lattice, and I think that's still -- from the last application it was up close to the limits. From what I understand from your observations and your analysis so far is you believe this should be within but we're not positive. That's one of the things we're hanging out on as far as the report goes.

MR. MUSSO: That's accurate.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

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MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I just had one. I know we're close to the load on this. Can I assume that this will probably be the last addition to this pole?

MR. MUSSO: This would be the fourth provider in the area. The active carriers are out there. AT&T is another carrier that is in the area, Cingular, AT&T. We'll really have to look at it on a case-by-case basis. I wish I had a more clearer answer for you but it is possible, looking at the tree line height, that another array technically could work here. However, you know, certainly how many antennas, what that dead load would be and what the overall stress is on the tower, its lattice members and on the foundation is something that would have to be reviewed in detail. From what I remember from the dish antenna review, we're approaching around ninety percent of the overall capacity. Six additional panel antennas, you know, in a zone that's really designed to capture those loads we feel would work out. We're looking to confirm

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those analyses. So this tower, in fact it's possible that it could accommodate but I think we're going to be pretty close to capacity. If someone would propose something additional if this was approved, I would guess they would be looking at some pretty significant reinforcing of these members or guide cables. Whether or not, you know, the Board wants to entertain that is a totally different story. But it's a very strategically located tower obviously with the Thruway, Route 300 and the corridors on and off.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No more comments. Thank you.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing to add.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have nothing on this.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have no comments.

CHAIRMAN EWASUTYN: Karen Arent, our Landscape Architect?

MS. ARENT: No.

CHAIRMAN EWASUTYN: Any additional

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comments or questions from the public?

This gentleman, if you would give your name and address, please.

MR. STILLMAN: William Stillman, 42 Creek Run Road. I don't think I'm anywhere near this. I am curious. You mentioned dead load at ninety percent capacity. Ninety percent capacity for a structure is not a nice place to be. What are the wind loads, the live loads?

MR. MUSSO: That's a good question. Cell towers, wireless facilities are governed by an industry standard for structural review known as the Tower Industry Association, TIA. That's an acronym. There is a newer version and this is one of the things we asked about. The version is called 222. It's a guidance. We're on version G now. The original one was done with the previous version, version F. G has been uploaded to account for more ice conditions that may accumulate on the tower itself or cabling that may be there. For every county in the U.S., including here in Orange County, there are wind loads that are designed, wind speeds and gusts of winds that are out there. It's not just the dead

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METRO PCS - VALLEY VIEW DRIVE

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loads. There's a lot more that would go behind
it.

MR. STILLMAN: Thank you.

CHAIRMAN EWASUTYN: Additional comments
from the public?

(No response.)

CHAIRMAN EWASUTYN: Okay. I'll move for
a motion to close the public hearing on the Metro
PCS - Valley View Drive site plan and special use
permit.

MR. PROFACI: So moved.

MR. BROWNE: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So

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carried.

And now we'll turn the meeting over to Mike Donnelly, Planning Board Attorney, to review the conditions of approval in the resolution for both ARB, site plan and special use permit.

MR. DONNELLY: That's correct. I'm going to assume, as we discussed at work session, that on the structural capacity issue you would condition this approval on receiving a letter from Mike Musso that the report has been submitted and he's satisfied that it meets the standards he's discussed. Obviously if it doesn't, the applicant would need to return to the Board. With that assumption in mind, that would in fact be the first condition. Plans would not be signed until receipt of such a letter. Next would be the ARB portion which would also require the colors of the equipment and arrays match the existing tower. The performance security removal bond if not fully posted will have to be brought to the full \$75,000 level. Routine inspection of the fencing, ground-based equipment and signage is required. Again, a coordinated study on an annual basis of

1 the NIER levels. Any increase in the
2 transmission, power, size or capacity of the
3 tower would require approval from this Board.
4 Because this is a co-location there would be the
5 baseline RF field measurements conducted in the
6 field after the tower is operational. We will
7 need a landscape security and inspection fee.
8

9 Karen, do you have what the inspection
10 fee would be on this matter?

11 MS. ARENT: It would be \$1,000.

12 MR. DONNELLY: Lastly, the condition
13 that no outdoor fixtures or amenities can be
14 constructed that aren't shown on the plan.

15 CHAIRMAN EWASUTYN: Any questions or
16 additional conditions from the Board Members
17 starting with Cliff Browne?

18 MR. BROWNE: None.

19 MR. MENNERICH: No questions.

20 MR. PROFACI: Nothing.

21 MR. FOGARTY: No questions.

22 MR. WARD: None.

23 CHAIRMAN EWASUTYN: Having heard the
24 conditions of approval for the Metro PCS - Valley
25 View Drive site plan, special use permit and ARB

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METRO PCS - VALLEY VIEW DRIVE

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approval presented by Attorney Mike Donnelly,
I'll move for a motion to grant that approval.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by
Tom Fogarty, a second by Joe Profaci. Any
discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

Thank you.

MR. LAUB: Thank you, Mr. Chairman,
Members of the Board. Thank you for your time.

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

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

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

DATED: April 9, 2010

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

----- X
In the Matter of

GARDNERTOWN COMMONS
(2009-12)

Intersection of Gardnertown and Creek Run Roads
Section 75; Block 1; Lot 21
R-1 Zone

----- X

PUBLIC HEARING
FIVE-LOT SUBDIVISION & SITE PLAN

Date: March 18, 2010
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: LORRAINE POTTER
JOHN CAPPELLO

----- X

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

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MR. BROWNE: The next item of business we have is a public hearing for a five-lot subdivision and site plan of Gardnertown Commons. It is being represented by Lorraine Potter of Lanc & Tully.

Ken, would you please read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185-57 Section K, Section 274 and Section 276 of the Town Law of the State of New York for a site plan and subdivision on the application of subdivision for Gardnertown Commons. The project site is located on the southwest intersection of Gardnertown Road and Creek Run Road in the Town of Newburgh, designated on Town tax map as Section 75; Block 1; Lot 21. The public hearing will be held on the 18th day of March 2010 at the Town Hall Meeting Room, Town Hall, 1496 New York State Route 300, Newburgh, New York at 7 p.m. at which time all

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interested persons will be given an opportunity to be heard regarding the site plan and five-lot subdivision. By order of the Planning Board of the Town of Newburgh. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated February 22, 2010."

MR. BROWNE: Thank you, Ken. This application per code, fifty-two certified notices were mailed out, twenty-five were returned. It was also advertised in both The Mid-Hudson Times and The Sentinel properly.

CHAIRMAN EWASUTYN: Thank you. At this point I'll turn to John Cappello.

MR. CAPPELLO: Good evening. My name is John Cappello, I'm with Jacobowitz & Gubits and I'm here with Lorraine Potter from Lanc & Tully on behalf of the applicants for the Gardnertown Commons subdivision.

Most of you may recall this application was approved and has approval for site plan for 104 townhouse units and condominium units. We're not changing any of that other than a couple very slight changes that Lorraine will highlight to you.

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2 The reason we're here tonight is when
3 we presented the plan back a couple years ago,
4 and when it was approved, we had a construction
5 phasing schedule. We're still going to build it
6 in the same construction phasing sequence as we
7 disclosed before the Board a couple years ago,
8 but due to the particularities of condominium
9 laws, because these will be condominiums they
10 will be owned -- everything inside the units will
11 be owned by the individual and the remaining
12 outside walls will be owned cooperative between
13 the condominium. You can not have what they call
14 a creeping condominium in New York State. What
15 we are doing here is for each construction phase
16 we are creating a lot that will be owned by each
17 individual condominium. So the four construction
18 phases will result in four lots for each of the
19 condominiums. Each of those will contain -- the
20 first condo will contain twenty-two units, the
21 second condo will contain twenty-nine units, the
22 third condo will contain twenty-five, and the
23 fourth condo will contain twenty-seven units.

24 There will also be a parcel created at
25 the very beginning which will be a homeowners

1 association lot. The homeowners association will
2 own all the recreational facilities and the
3 clubhouse. This homeowners association will
4 also, from the very beginning, have an easement
5 over these four lots, the four condominium lots,
6 to maintain all the infrastructure in the
7 facilities. So the water, the sewer, the
8 landscaping maintenance, the snow removal, the
9 grass cutting, the shingle changes, the roof
10 repairs will all be done by the master homeowners
11 association. Each condo owner in each individual
12 condo will be a member of that HOA. They will
13 pay dues to the HOA, they will have votes in the
14 HOA. The HOA will take care of maintenance of the
15 entire property in a unified manner to make sure
16 all the buildings are kept up, to make sure the
17 roads are plowed, the snow is maintained, the
18 water and sewer is working. The Town will also
19 have back-up easements in case anything happened
20 with the sewer line and water line that may
21 affect the Town's system, they would have the
22 ability but not the duty to come in and do the
23 repairs here as well and then charge back to the
24 HOA.
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2 So that's the only reason we're here
3 tonight. Not to, you know, change anything or
4 any of the issues of the site plan that was
5 approved two years ago. It's just to create the
6 mechanism that will allow this development to
7 proceed in phases and to allow each condominium
8 to be formed and meet the relevant New York State
9 law. So each of these condos, as they're formed,
10 will have to undergo a review of the Attorney
11 General and then the Attorney General will look
12 at the specifics, a copy of it will be submitted
13 to the Town to make sure that the budgeting of
14 what's being built will be able to be maintained
15 by the individual condo, that they'll be able to
16 subsist correctly and it will be built in a
17 unified manner.

18 The construction phasing, as I said, is
19 virtually similar to the construction phasing we
20 had talked about before. Lorraine will mention
21 after the first condo is constructed, during the
22 time of construction of the second before we
23 build the third we would either complete the loop
24 road or do an emergency access. She can run you
25 through the phasing.

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There are a few very minor revisions to the site plan itself. In order to provide kind of a little bit of a mix and also to provide handicap accessible units, 10 of the units of the original 104 that's been reduced to 103, now 10 of those units will be flats, what you would consider an apartment that will be owned in condo versus an up and down townhouse. The footprint of the building from the outside will be virtually identical to what was proposed before. That would be the only change. The building will be expanded on a couple of them on the end -- not the building would be expanded but the floor would be expanded so you have two different units on top of each other instead of two up and down units. So therefore the floor and the building outside will look virtually the same. It will give us a little better mix and provide some handicap accessible units.

I'll turn it over to Lorraine to talk a little bit more about the specifics of the construction phasing and the minor changes to the site plan.

MS. POTTER: Good evening. My name is

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Lorraine Potter, I'm with Lanc & Tully
Engineering.

As John had mentioned, there are very
minor changes that have been made to the site
plan. Specifically, we've reduced the number of
units from 104 to 103. As he mentioned, there
will be 10 units that will be the up and down
units. They would be in building number 2,
number 4, number 8 and number 12. These would be
the end units. They would be considered flats.

The utilities on the site have remained
the same as they had been previously.
We had received Health Department approval for
the water. That has not changed.

There's been some minimal grading
changes, and I do mean minimal, with respect to
the change in the building layout itself.

Other than that -- the landscaping has
remained the same, just some modifications as we
go around with sidewalks. Darren had asked we be
a little bit more constructive as far as creating
a more pleasingly entrance to any of the
buildings, specifically on the sides where we
could provide additional landscaping to help

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soften everything.

Other than that, that's basically it.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to the public for any questions or comments.

Sir, if you could give your name and address.

MR. MUSCARELLA: Nicholas Muscarella, 10 Stony Run Road. When this was first proposed I had three concerns and I never got any results on them. Number one, is there going to be any fencing for our property to stop people from coming into our property?

MS. POTTER: There is no fencing proposed. Excuse me. May I? There's no fencing proposed. We do have a considerable amount of landscaping as a buffer. As you can see, we're following the Town's requirements for the buffering.

MR. MUSCARELLA: I can see that as a passage through my yard to parts of that for kids going through there. There are people living in there and using my yard and my neighbors' yards to get in and out of there, and I think we should

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have a fence.

The other concern I had was that when they do their infrastructure, okay, that blasting might be needed. Everybody says no but we live there and I went through that sewage and I have a lot of damage. If they're going to blast I want a meter on my house this time. I'm not going to let the Town get away with that.

The third issue I have is that my property is four feet below that property. If they change the lay of the land, I don't want water coming into my property. That never got answered to me. I think that I deserve a right to get that answered.

CHAIRMAN EWASUTYN: Okay. What we'll discuss right now is -- the public hearing is on the subdivision. The site plan which they're discussing has all been approved. That would mean that the concern that you had raised as far as fencing the property was considered but wasn't made part of the approval process.

I'll have Pat Hines talk about the drainage.

Do you plan on blasting?

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2 Again, we're really talking about the
3 subdivision. I would like John to maybe
4 distinguish between both for the public to
5 understand it.

6 MR. CAPPELLO: Once again, the
7 subdivision here really is to create these lines
8 to allow us to build the development in phases as
9 we disclosed. I mean we always disclosed on the
10 site plan that it would be built in construction
11 phases. Those are construction phases. In order
12 to have them individual condos and meet New York
13 State law, we have to create these lines around
14 the individual condominiums. So there will be
15 two or three buildings in each of the
16 condominiums but they'll be exactly as was
17 proposed on the approved site plan. The drainage
18 plan that was reviewed and approved by the Town
19 over a considerable amount of time will remain
20 the same. All we're doing here tonight is
21 creating these lines in order to allow the
22 Attorney General to review it and discussing the
23 minor changes regarding the reduction in one unit
24 and the flats.

25 MR. MUSCARELLA: Also that lady

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mentioned there's a grading change.

MS. POTTER: It's minimal. Like when you go to --

MR. MUSCARELLA: I can have three feet of water in my yard last week --

CHAIRMAN EWASUTYN: Nicholas, Nicholas. There's a sense of order.

MR. MUSCARELLA: I apologize. Yes. I apologize.

CHAIRMAN EWASUTYN: You don't have to. I mean it's understandable. Let's try and talk about it.

MS. POTTER: Would you like me to address that?

CHAIRMAN EWASUTYN: Yes. Try and kind of highlight where you're talking about.

MS. POTTER: When I say minimal grading, I mean as a building such as -- this building changed a bit, because it has flats. The driveway shifted a little bit. So that's the type of grading that I'm talking about. I'm not talking about perimeter grading. I'm talking about minimal grading just to meet the change in where a driveway was placed or where a sidewalk

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was placed.

CHAIRMAN EWASUTYN: William.

MR. STILLMAN: William Stillman, 42
Creek Run Road. I realize this is regarding the
site layout but Nick brings up a valid point I
would like to reiterate on. When we reviewed the
site plan four-and-a-half years ago a number of
us brought up environmental concerns as this was
previously agricultural and the possibility of
pesticide contamination, what was going to be
done to wear away any kind of issues. That was
additionally not addressed -- not reported by the
Board. I realize you have a public hearing so
the public can speak. That's a legal
requirement. I'm concerned that the requirement
is not to listen because, as I said, these were
not answered. We really would like to know if
we're going to stir up DET, chlorine and so forth
when you begin the construction. I'm not
particularly against construction but I'd rather
not be subjected to health hazards. The Board
has a responsibility to address those. As far as
I can see, you're remiss in not providing answers
to those questions versus if you haven't

1 addressed them. They should be addressed before
2 you approve the site plan or sometime since that.
3 Could you comment on what decisions were made
4 regarding those issues that were brought up in
5 2005?
6

7 CHAIRMAN EWASUTYN: John.

8 MR. CAPPELLO: Well, we did address
9 that issue. We did the additional submissions in
10 response to all the comments that were made
11 during that site plan hearing. This Board
12 entered decisions and issued a negative
13 declaration under SEQRA which required mitigation
14 measures including a specific paragraph, if I
15 recall, on that issue you raised that discussed
16 our plan, our remediation plan, if anything was
17 disclosed. It included that. Then there was a
18 site plan resolution that was once again filed
19 that addressed that issue and included those
20 requirements. So those issues were addressed.
21 The negative declaration that was adopted was
22 fairly extensive. It's in the paper. That
23 specific question was addressed.

24 MS. POTTER: Yes.

25 MR. STILLMAN: May I just clarify,

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though. What was the decision? You put it -- you approved the site plan but you noted there was a paragraph made about the amelioration of pesticides. What was the decision?

MS. POTTER: Specifically the soils, when they are -- when we do construction the soils would be stockpiled, they would be -- after grading -- during grading they would be respread and they would be capped. The new soil would be placed on top of the existing soil. That was the requirement as far as remediation. We had an expert come out and do soil testing and this is what the Board reviewed.

MR. STILLMAN: That's the information I need. Thank you.

MR. DONNELLY: If I could add to that. The Orange County Health Department has jurisdiction over that issue. They reviewed and approved the remediation plan and a condition to that effect. A condition requiring compliance with that remediation plan was included in the resolution of site plan approval.

MR. STILLMAN: Thank you very much.

CHAIRMAN EWASUTYN: The lady in the

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back.

MS. PARKINSON: My name is Susan Parkinson, I live at 83 Gardnertown Road. We're the first house to the north of this lot here. The last time we were here the issue of traffic was not panned out yet. Gardnertown Road has a lot of traffic on it as it is. That wasn't settled the last time we were here.

I'd like to know what is the value of these condos and will it increase our property value or --

CHAIRMAN EWASUTYN: Let's start with the first question as far as the mitigation measures for traffic.

MR. CAPPELLO: We did present and have approved both by this Board and the Town Board a plan to do some improvements at the Gardnertown/Gidney Road -- Avenue intersection. The applicant actually purchased a single-family property there to get the area needed to widen that. It has already dedicated the area for widening to the Town, and our approval states that before -- it was the 49th unit and it was reduced by the Town Board. I'm not sure if it was

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the 34th or 29th.

CHAIRMAN EWASUTYN: I think it was the 31st.

MR. CAPPELLO: Split the difference. Prior to issuance of the certificate of occupancy for the 31st out of the 103 units, those improvements at the Gardnertown/Gidney intersection will have to be completed. There were two additional commercial developments at that intersection that were approved that have already put their percentage of the money in the kitty, and then we -- this developer would put in the rest. So those improvements would be completed by the developer or financed by this developer with the money in the kitty already prior to issuance of a 31st CO on this development.

CHAIRMAN EWASUTYN: I believe that would include a traffic light at that intersection.

MR. CAPPELLO: Some widening and a traffic light.

CHAIRMAN EWASUTYN: As far as do you have, at this point, a projected cost for these

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units?

MR. TERACH: I do not.

MS. PARKINSON: Are they going to be low-income housing or --

MS. POTTER: No.

MR. CAPPELLO: No. The monies spent on this -- I mean it's hard to project in this market, you know, going forward, in a year or better, two, what they're going to be. They have been projected -- I think we did include some information but they're not subsidized. They're going to be market condos. They'll be, you know, attractive and they'll be -- out of the 103, 93 will be townhouse two floor units. So it will be an attractive project. We've submitted renderings and will finalize the architectural review with this Board in the very near future. The renderings have been submitted.

CHAIRMAN EWASUTYN: Do you have examples of the renderings you may want to put up at this time?

MR. CAPPELLO: This is our architect, Barry Terach.

CHAIRMAN EWASUTYN: Can we have the

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spelling of your last name?

MR. TERACH: T-E-R-A-C-H.

MR. PARKINSON: If I may. I'm Leaman Parkinson, 83 Gardnertown Road. Our main concern is that -- I mean we're new to the neighborhood. We're here about six years maybe. We've seen other developments and we've heard tell of other of these type of developments going sour. Our major concern is we're new homeowners here, we don't want our value decreased moving to the neighborhood. That's our biggest concern.

MR. CAPPELLO: We'll show you the architecture here. Part of the reason -- when you talk about going sour, part of the reason of the subdivision is when they're condominium ownership, the Attorney General's office will actually -- as we form each of those condos it will be an individual entity and an individual unit. The Attorney General's Office in New York State will look at the budget to make sure that these units can -- are sustainable, that they'll be able to meet the water charges, what the common charges will be, when the recreation will be built and make sure it's built in a manner

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that the unit owners can finance it for those exact reasons, because back -- you know, there's a history of some of these going bad. As time goes on you learn from your mistakes. There is a fairly extensive review now to make sure that they can sustain.

MR. PARKINSON: Thank you.

MR. TERACH: I'm Barry Terach, I'm with Pendergast & Terach, Architects.

These are -- I don't want to call them schematic elevations but they're generic in nature. They're not specific to any of the lots. We all know there's some grading on those lots. These sketches do not reflect that. I will be presenting site specific buildings.

If you kind of can see these kind of slopes that are happening here, the roofs are dropping. It's in preparation of being able to adjust these buildings per lot. Whether the lot is going to slope this way or this way, the buildings will jump two to three feet as we go across. We're not building terraces or flattening out the site. What you're really looking at here are they're essentially vinyl

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GARDNERTOWN COMMONS

sided, asphalt, fiberglass shingled townhouses. They'll have -- we'll present an array of colors for the buildings. There will be more than one set of colors. It's not a monotonous sea of vinyl. We've introduced some synthetic stone at the base of these things, if you can see any of that happening here. There will be -- there is likely to be kind of a cream trim across the board which will unify all the buildings. There will be natural tones. The vinyl is kind of shown as a spruce green which is available shown in kind of an oak color. The window frames will be either -- I think the color basically is like a terra tone, kind of a sand color. We're toying with the idea of actually using a colored window, an evergreen window. I'm trying to work with a natural palette of colors. They will be clapboard sided up to these accent points which will be a vinyl shake siding of an accent color, again trying to wash out the monotony of the buildings. They have been designed with a lot of roofs and breaks intentionally to keep the scale of these buildings down to a more human scale. That's about what we're looking at. They'll be

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GARDNERTOWN COMMONS

painted garage doors, so we'll be in control of the color patterns of those also.

MS. PARKINSON: Lisa Parkinson. Will a sidewalk be put on Gardnertown Road all the way down?

MS. POTTER: No sidewalk.

CHAIRMAN EWASUTYN: Additional comments from the public on the subdivision? Nicholas. Nick, go right ahead.

MR. MUSCARELLA: I have a real concern, okay. My concern is that my property and that property is a four-foot drop, okay. Somebody at night can walk over and walk into my property and get hurt. Who's going to be liable for that without a fence? I said that to the Town Board there, I think you guys should protect the homeowners up there by making them put a fence in there. If somebody walks off that into my property and gets hurt, who is going to be responsible? I have a four-foot drop there.

MR. HINES: There's a stone --

CHAIRMAN EWASUTYN: As we reviewed the site plan we heard your comments and it was decided that a separation with a fence wouldn't

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be a requirement of the site plan.

MR. HINES: There is an existing
stonewall along --

MR. MUSCARELLA: But the stonewall is
on my side. It's even on that. If you come up
and look at it you'll see what I'm talking about.
There's no stones above the property. On my
property the stonewall is about four feet and --

MR. HINES: That makes the grade
change.

MR. MUSCARELLA: Thank you. I just
want to be on record for that.

MS. PRADA: I have a quick question.
Shelley Prada, 13 Stony Run Road. I'm just
curious who the developer is?

MR. DONNELLY: The developer is
Gardnertown Commons Associates, LLC. It's a
limited liability company. Gardnertown
Associates, LLC.

MS. PRADA: Gardnertown Associates,
LLC?

MR. DONNELLY: Yes.

MS. PRADA: Thank you.

CHAIRMAN EWASUTYN: Any additional

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comments from the public?

MR. PRETORIUS: Edward Pretorius, 11
Stony Run Road. I give and take you have 103
units coming in. It takes two people in a family
to make a living. That's over 200 more cars. I
mean I wait in line down there between Gidney
Avenue and Gardnertown Road sometimes 25 minutes
just to get to Gidney Avenue. Even with a light,
if they're not in sync or there's no other way,
people cut around, go through Price Chopper. I
can still see the traffic being backed up way up
over that hill.

CHAIRMAN EWASUTYN: There were
professional traffic consultants that analyzed
the project and analyzed the peak hour travel
times. Based upon that accumulative information
by licensed PEs in the field, not based upon
assumptions of what may or may not happen, a
mitigation measure was determined, that being the
improvements on Gardnertown Road and Gidney Way,
the installation of a traffic light after the
31st certificate of occupancy. That was the
conclusion based upon professionals reviewing the
project.

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GARDNERTOWN COMMONS

MR. PRETORIUS: Thank you, sir.

CHAIRMAN EWASUTYN: You're welcome.

MR. MENNERICH: You also should be aware that the Planning Board has a traffic consultant that reviewed all those studies that were done relative to traffic. It's been checked by a consultant for the Planning Board.

MR. PRETORIUS: Thank you, sir.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Final comments from Planning Board Members. Cliff Browne?

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions at this time.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: You had the one unit that was either handicap or senior citizen. Could you

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explain to the public what that is?

MR. TERACH: Sure. John mentioned there were 10 units that were changed from what we typically refer to as duplex units, typically your living room and kitchen on the first floor and bedrooms upstairs. That's a typical setup, typical colonial house setup. We've found over the recent past that there is a demand for flat units, which are more like ranches, compared to a house where everything is on one level. The lower level units will be arranged such that certain guidelines for our handicap access will be followed. It has to do with doorway widths, clearances in bathrooms, kitchen cabinets, being able to pull up to a sink. It will be prepared in the event let's say a person buys a unit in the complex, those will be available for them.

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

MR. CANFIELD: I don't have any comment on the subdivision itself. I do, however, have a comment on the change to the buildings, if you want to get into that or wait for site plan review.

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CHAIRMAN EWASUTYN: I think that would be a more appropriate time to get into the design of the buildings.

Jerry's talking about as far as building code compliance issues. Correct?

MR. CANFIELD: Yes. Fire protection issues.

MR. TERACH: I haven't been in for a couple days. I apologize. I know you did try to contact me. I'll be IN tomorrow or after the meeting. If you want we can discuss it then.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Our previous comments that we issued are still outstanding, metes and bounds on the subdivision and some minor technical comments that need to be addressed, otherwise the majority of the changes are lines on the map and won't be visible in the field. There's no large changes to the map.

We're okay with the subdivision with the exception of the minor technical comments we have that need to be addressed.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

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MR. COCKS: I have nothing further at this time.

Just a note that this was also sent to the Orange County Planning Department and they didn't have any comments.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: I'm just requesting some notes to be put on the drawing to make sure each phase is left neat and tidy just in case construction ends for a certain period of time.

CHAIRMAN EWASUTYN: Any further comments from the public?

MS. PARKINSON: When is construction going to begin?

MR. CAPPELLO: Best case scenario, probably mid summer. Best case scenario.

CHAIRMAN EWASUTYN: Any further comments from the public?

MR. PRETORIUS: If there is blasting that is needed just to make the subdivisions will the public be alerted?

CHAIRMAN EWASUTYN: Jerry Canfield can speak to you as far as the requirements for

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blasting. Jerry.

MR. CANFIELD: The developer will be required to get a blasting permit per municipal code. The bonding amount, the insurance amount is set by the Town Board. Because of the proximity to the additional residences, we will recommend to the Board that the maximum amount be posted. As in previous blasting conditions, there will be monitoring programs put into place to monitor the foundations and what have you. There are DEC requirements for blasting which does require this monitoring.

MR. PRETORIUS: I just wanted to know if we were going to be alerted so we don't walk outside and hear the bangs.

MR. CANFIELD: One of the requirements before every shot is a sounding device to alert everyone and notification that they'll be blasting.

MR. PRETORIUS: Thank you very much, sir.

CHAIRMAN EWASUTYN: Any last questions from the public?

(No response.)

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GARDNERTOWN COMMONS

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to close the public hearing on the five-lot subdivision for Gardnertown Commons.

MR. FOGARTY: So moved.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to review the conditions for approval for the five-lot subdivision for Gardnertown Commons.

MR. DONNELLY: I prepared a resolution

1 of preliminary subdivision approval. As was
2 outlined earlier, this had already received final
3 site plan approval. My suggestion, however, is
4 that we grant preliminary subdivision now and
5 that we then attend to all of the conditions of
6 this resolution and revisit the old site plan
7 resolution as a checklist and incorporate then,
8 when all of those matters are resolved, into a
9 final subdivision, final site plan resolution
10 with the phasing plan that's discussed. Jerry
11 has mentioned he has some issues. Pat has a
12 short list. The only other one, and I'll go over
13 the resolution in a moment, is the ongoing issue
14 and the ongoing discussions we've had with the
15 town attorney and the assessor over the offering
16 plan and the bylaws of the homeowners association
17 and the condominium association. Although in
18 concept what has now been proposed has been found
19 satisfactory by the town attorney and by the
20 assessor, I think it's important that the town
21 attorney have an opportunity to see a draft of
22 the offering plan and the bylaws for the
23 homeowners association and the condominium
24 association, at least in specimen one of those,
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in order that the devil in the details of that wording is also satisfactory.

So with that in mind, the resolution will note that this is preliminary subdivision only. I will incorporate, since it was discussed tonight, the soil remediation plan that is proposed. I'll include a condition that all of the outstanding memo issues of the Planning Board Engineer, I think the Town Engineer might have had one, so on and so forth, be resolved before final approval is granted. I have a condition requiring a sign off by the Town Attorney on the condominium and HOA offering plans and bylaws. I'm trying to get a handle on the status of other agency approvals. I went back to the earlier resolution. What we had then was a roadway name approval by the Newburgh Town Board. We can keep these as a checklist. We had approval by the Town of Newburgh engineer of the sewer main extension and the -- I think the stormwater management plan proposal. Those are still two required --

MS. POTTER: No. They were already resolved.

MR. DONNELLY: They were resolved.

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GARDNERTOWN COMMONS

Okay. The Town of Newburgh water department needed to look at the sewer and water connections, the water main extension, hydrant locations, fire system.

MS. POTTER: They were resolved.

MR. DONNELLY: They were resolved as well. Okay.

The town attorney the HOA documents. ARB approval we'll need to revisit when we do final site plan.

Did this require a sewer flow acceptance letter from the City of Newburgh?

MR. HINES: Yes, it did.

MR. DONNELLY: Did it get it?

MR. HINES: Yes.

MR. DONNELLY: Health Department on water and sewer connections or was that approved?

MS. POTTER: That was approved.

MR. DONNELLY: Did this need a SPDES permit at all?

MR. HINES: Yes.

MR. DONNELLY: It has that?

MS. POTTER: Yes.

MR. HINES: Is it in effect? It's

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required prior to grading.

MS. POTTER: I will verify.

MR. DONNELLY: I'll put prior to grading.

Road names you said we had already. We needed an emergency repair utility easement, and if that isn't done we'll make sure that's done before final approval. We'll note that we're reserving ARB approval, or in effect revised or amended, until the time of final approval. There are various types of financial security required and the applicant has already entered into a developer's agreement with the Town Board. Many of those will be incorporated into that. Specifically as part of the final approval there will be a requirement of a landscape security and inspection fee, stormwater improvement security and inspection fee, water main extension security and inspection fee, sewer main extension security and inspection fee, and a private road construction security and inspection fee. I talked to Lorraine earlier today. The applicant will wish to avail itself to the deferral of the landscape and the fees in lieu of parkland, and

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the resolution makes reference to that. I think there was an offer of dedication and I forget what was being dedicated. It must be the roadway area.

MR. CAPPELLO: We've already actually deeded and the Town -- it's an issue with TP 584. I think it was filed. The widening strip on Gidney and --

MR. DONNELLY: I'll leave it in the resolution for now. If you could report to us on that.

Obviously the construction phasing details will have to be finalized to the satisfaction of the Board before final approval.

John, you had said that the off-site traffic improvements need to be completed before the 31st CO.

MR. CAPPELLO: I think that -- I have the agreement.

MR. DONNELLY: In the original resolution it was 41.

MR. CAPPELLO: Right. The Town Board went and approved it and reduced the number.

MR. DONNELLY: I'll change it here

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then. And the recreational facility can be completed before the 44th CO. Lastly, there will be a requirement of fees in lieu of parkland, but they can be deferred until the time of the building permit. I think that should do it.

CHAIRMAN EWASUTYN: Additional comments or questions from our consultants as far as the conditions for preliminary approval that were presented by Mike Donnelly?

MR. COCKS: No.

MR. HINES: I don't have anything else.

CHAIRMAN EWASUTYN: Anything from our Board Members?

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: Then having heard the conditions for preliminary approval presented by our Attorney, Mike Donnelly, for the subdivision for Gardnertown Commons five-lot subdivision, I'll move for a motion for approval.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by

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GARDNERTOWN COMMONS

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So
carried.

Thank you for attending.

(Time noted: 8:11 p.m.)

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

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

DATED: April 9, 2010

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

----- X
In the Matter of

DRISCOLL SUBDIVISION
(2005-46)

Extension of Preliminary Subdivision Approval

----- X

BOARD BUSINESS

Date: March 18, 2010
Time: 8:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

MICHELLE L. CONERO
10 Westview Drive
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(845)895-3018

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DRISCOLL SUBDIVISION

MR. BROWNE: Under Board Business we have four items all requesting extension of their preliminary approvals.

The first one is the Driscoll Subdivision, number 2005-46, extension of preliminary subdivision approval from March 29, 2010 to September 29, 2010.

CHAIRMAN EWASUTYN: I'll move for a motion to grant the extension for the motion that was just raised by Cliff Browne.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by -- was that Tom Fogarty? A second by Tom Fogarty. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

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

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

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

DATED: April 9, 2010

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

----- X
In the Matter of

THE POLO CLUB
(2006-09)

Extension of Preliminary Site Plan Approval

----- X

BOARD BUSINESS

Date: March 18, 2010
Time: 8:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

MICHELLE L. CONERO
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THE POLO CLUB

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MR. BROWNE: The next item is The Polo Club, number 2006-09, extension of preliminary site plan approval from March 29, 2010 to September 29, 2010.

CHAIRMAN EWASUTYN: Again I'll move for a motion to grant an extension for the preliminary site plan approval for The Polo Club based upon the dates presented by Cliff Browne.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci and a second by John ward. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

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

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

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

DATED: April 9, 2010

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

----- X
In the Matter of

NAPOLITANO
(2009-10)

Extension of Final Subdivision Approval

----- X

BOARD BUSINESS

Date: March 18, 2010
Time: 8:14 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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

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NAPOLITANO

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MR. BROWNE: The next item is Napolitano, item number 2009-10, extension of final subdivision approval from April 1, 2010 to July 1, 2010.

CHAIRMAN EWASUTYN: I'll move for a motion to grant an extension for the final subdivision approval based upon the dates of April 1, 2010 to July 1, 2010 for Napolitano.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty. I have a second by Joe Profaci. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

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

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

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

DATED: April 9, 2010

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

----- X
In the Matter of

TERRIZZI
(2006-48)

Extension of Final Approval

----- X

BOARD BUSINESS

Date: March 18, 2010
Time: 8:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

MICHELLE L. CONERO
10 Westview Drive
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MR. BROWNE: The last one is Terrizzi,

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TERRIZZI

84

item 2006-48, extension of final approval from
March 15, 2010 to September 15, 2010.

CHAIRMAN EWASUTYN: Do we have a motion
to grant an extension of the final approval to
September 15, 2010 for the Terrizzi subdivision?

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by
Joe Profaci and a second by John Ward. Roll call
vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

I'll move for a motion to close the
Planning Board meeting of the 18th of March 2010.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

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TERRIZZI

85

Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

(Time noted: 8:16 p.m.)

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

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DATED: April 9, 2010