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

----- X

In the Matter of

LOT LINE CHANGE FOR CARLOS DOMINGUES
(2008-05)

Washington Avenue
Section 52; Block 14; Lot 10
R-3 Zone

----- X

CONCEPTUAL SKETCH PLAN
LOT LINE CHANGE

Date: March 20, 2008
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

LOT LINE CHANGE FOR CARLOS DOMINGUES

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MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of March 20th, 2008.

At this time we will call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Myself present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Court Stenographer.

MR. CANFIELD: Jerry Canfield, Fire Inspector.

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

LOT LINE CHANGE FOR CARLOS DOMINGUES

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MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

MR. MUSSO: Mike Musso, HDR Wireless Communication Facilities.

MS. HAINES: Thank you.

At this time I'll turn the meeting over to Frank Galli.

MR. GALLI: Please stand for the Pledge.

(Pledge of Allegiance.)

MR. GALLI: Turn off all pagers, cell phones and any other devices that make noise or may interrupt the meeting.

CHAIRMAN EWASUTYN: The first item of business this evening is a lot line change for Carlos Domingues. It's a conceptual sketch plan located on Washington Avenue in an R-3 Zone. It's being represented by Jonathan Cella.

MR. CELLA: It's two existing lots on Washington Avenue just off of 52. They're zoned R-3. It's two lots total just under an acre.

The existing conditions, the two lots

LOT LINE CHANGE FOR CARLOS DOMINGUES

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are nonconforming at the lot width -- I'm sorry, lot depth. We're proposing a lot line change which will create two building lots -- lot line change which will make two conforming building lots for single-family residential homes.

Both lots will have to be serviced by Town water and individual septic systems.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines, could you cover for Bryant Cocks, Planning Consultant.

MR. HINES: Bryant had to leave this evening, he wasn't feeling well.

His comments are that he feels that the project is a subdivision because the lots will now have -- both lots will have frontage on Washington Avenue. He feels it should be submitted as a subdivision rather than a lot line change.

The property lines depicted on the plans are not consistent with the tax maps. I believe there's a surveying issue with how the existing lots are laid out, so additional surveying information will be required.

The surveyor's seal and stamp should be

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submitted on those plans, adjoining lot owners' names, the location map.

The driveway locations to the houses should be modified to a common driveway rather than the two, and again a resubmitted application with the correct lot configuration and a subdivision application should be submitted.

As far as our review, there was not enough technical information to perform a review but when we do get the revised plans we'll look at the expanse of the Town roadway and the septic system designs and any drainage impacts.

MR. DONNELLY: If I could just add to that. One of the criteria the Planning Board has always used to determine whether or not a proposal is a lot line change is is it an establishment that will not render currently noncompliant parcels compliant. In other words, if you're going to adjust the line in such a way to make nonconforming parcels conforming you will need subdivision approval. That's what you're doing here in part.

MR. CELLA: All right. So we'll have to come back.

LOT LINE CHANGE FOR CARLOS DOMINGUES

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CHAIRMAN EWASUTYN: Okay. Your application will have to be revised and the necessary fees to go along with that. You can speak with Dina Haines.

MR. CELLA: The fees we submitted we can just supplement? That's fair.

CHAIRMAN EWASUTYN: Speak to Dina. Dina manages that part of the business.

MR. CELLA: Thank you.

(Time noted: 7:05 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: March 25, 2008

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

- - - - - X

In the Matter of

OMNIPOINT COMMUNICATIONS, INC.
(2008-06)

5020 Route 9W
Section 82; Block 1; Lot 34
B Zone

- - - - - X

CONCEPTUAL SITE PLAN
SPECIAL USE PERMIT

Date: March 20, 2008
Time: 7:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: CARA BONOMOLO

- - - - - X

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

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CHAIRMAN EWASUTYN: The following item of business is Omnipoint Communications, Inc. It's a conceptual site plan for a special use permit located on Route 9W in a B Zone. It's being represented by --

MS. BONOMOLO: I'm Cara Bonomolo from Snyder & Snyder.

CHAIRMAN EWASUTYN: Thank you.

MS. BONOMOLO: Good evening. Omnipoint is before you on a special permit and site plan application to locate a wireless telecommunications facility on commercial property located at 5020 Route 9W in a business zone. The facility will consist of a 140-foot stealth flagpole with six panel antennas located therein so they'll not be visible from the exterior, and related equipment located at the base thereof with an equipment enclosure screened with an eight-foot chain-link fence with green privacy slats.

In support of the application we have submitted to you an affidavit from Omnipoint's radiofrequency engineer demonstrating the need for the facility to remedy a significant gap in

1
2 reliable wireless coverage provided by Omnipoint.
3 We have also submitted a structural letter
4 certifying that the facility will be designed in
5 accordance with applicable structural standards,
6 and we have submitted an RF emissions report
7 certifying that the facility will comply with the
8 FCC's requirements regarding radiofrequency
9 emissions.

10 We have received from several of your
11 consultants some comments. I'm happy to go
12 through those now if you would like or just
13 answer any questions on the application and
14 proceed as you wish.

15 CHAIRMAN EWASUTYN: Cara, you can
16 continue on with the response.

17 MS. BONOMOLO: To the comments. Sure.

18 CHAIRMAN EWASUTYN: Then we'll have
19 Mike Musso also speak for the Planning Board.

20 MS. BONOMOLO: Okay. Shall I wait to
21 go through Mr. Musso's comments until he speaks?

22 CHAIRMAN EWASUTYN: Please. Thank you.

23 MS. BONOMOLO: Okay. We did receive
24 comments from your landscape architect suggesting
25 -- making some suggestions for the balloon test.

1
2 Under your Code we do have to schedule a balloon
3 test. That's one of the things we would like to
4 discuss here with you this evening. The
5 landscape architect has suggested that Omnipoint
6 render different types of designs. We are
7 proposing a stealth flagpole design here. The
8 only other stealth type of installation would be
9 a monopine or tree pole. We would be interested
10 in knowing if that is something this Board would
11 be interested in seeing rendered as part of the
12 visual analysis that we prepare after the balloon
13 test.

14 Also, the landscape architect requested
15 that viewpoints and pictures be taken from the
16 Powelton Club as well as homes or properties with
17 historical significance in the area, and the
18 Hudson River. The only property of historical
19 significance that was revealed as part of
20 Omnipoint's NIEPA compliance was the Powelton
21 Club, and that was submitted to the State
22 Historic Preservation office for review. I do
23 have a copy of a letter from SHPO stating that
24 the facility would not have an adverse impact on
25 historic resources, and specifically the Powelton

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Club. However, we would be happy to take photographs and use viewpoints that the Board suggests this evening for the balloon test. I think that's part of the purpose we discuss the balloon test with you beforehand.

In addition, we received a project analysis from Garling Associates. There was a question there as to whether there were any other carriers interested in using this facility. The flagpole will be constructed to accommodate three additional sets of antennas below the antennas of Omnipoint. We are aware that Verizon has expressed interest in co-locating on the pole. In addition, Omnipoint is reaching out to other carriers to confirm whether or not they have interest in co-locating on the pole.

As well, there was a comment with respect to the chain-link fence and the privacy slats, whether maybe they should be black. Green is proposed because that is what's consistent with the dumpster enclosure that is existing on the property adjacent to where the equipment compound will be, however Omnipoint is willing to do black privacy slats if that's what this Board

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chooses, or a different type of fencing as well if you wish.

A flag is proposed to be flown on the flagpole tower. Because it is an American flag it has to be lit at night under Federal law, and two small flood lights are proposed to illuminate the flag at night. Also, if the Board wishes, we could propose a flagpole type tower without the flag to eliminate any need for lighting.

With respect to the Mid-Valley Mall water tower, we did submit an affidavit from Yvonne Manzell, Omnipoint's representative, that there were negotiations with the owner of that water tower and Omnipoint and the owner could not come to an agreement. At the end there were several months where the owner was nonresponsive. Omnipoint gave a drop dead date sometime back in May and said if we don't hear from you we assume you're no longer interested. Omnipoint never heard back from the owner so the Mid-Valley water tower is not a feasible alternative to the proposed site despite Omnipoint's efforts to obtain a lease agreement there.

There was a comment regarding a shrub

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that would be removed in this area where Omnipoint is proposing to put a new parking space to make up for the one that will be removed for the flagpole installation. I don't see why replacing that shrub would be a problem. I think that it could be just moved over to this area here.

And then again there was a comment regarding the location of the facility and the setback from the property lines. Under your law the facility is required to be setback 140 feet from the property lines. That's the height of the tower. In this instance we will be 60 feet 9 inches from the rear yard and 21 feet 6 inches from the side yard. Under the Code the Planning Board has the authority to waive those setback requirements. The facility was located in this location just to be tucked back in the rear of the property, minimize visibility, it's away from 9W, away from adjacent development, it doesn't interfere with the existing circulation of the property or existing views of the property, so that's why it was placed back in that corner there. And there is no existing development.

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This is all just vegetation in this back area here. It's adjacent to the golf course.

Those are the comments I have with respect to your consultants' comments with the exception of Mr. Musso. I can add to that after he speaks.

MR. HINES: Bryant had a couple more comments regarding bonding and the request to reduce the performance security to \$10,000 while the Code requires \$75,000.

MS. BONOMOLO: It was a request that we made.

CHAIRMAN EWASUTYN: Mike, I don't think we --

MR. DONNELLY: I don't think you have the authority.

CHAIRMAN EWASUTYN: I don't think we have the authority to make that waiver. The office is closed tomorrow. On Monday could you make it a point of getting to our office a copy of the letter that you received from SHPO?

MS. BONOMOLO: I have copies here. I could submit that now.

CHAIRMAN EWASUTYN: You can submit them

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to Dina Haines.

CHAIRMAN EWASUTYN: We can waive the setback requirements which at this point the requirement is 140 feet. They're showing that their side yard they're proposing would be 21 feet 6 inches and their rear yard would be 60 feet 9 inches. That's a --

MR. DONNELLY: I believe, I'll double check, you do have the authority to waive those. You would have to make findings for your reasons as to doing so.

CHAIRMAN EWASUTYN: Okay. At this point I would like to introduce Mike Musso who represents the Town of Newburgh and the Planning Board. He's our telecommunications expert.

Mike, would you come forward please.

MR. MUSSO: Sure. Good evening, Mr. Chairman, Members of the Board, members of the public. Mike Musso from HDR working on behalf of the Town to review the application.

Ms. Bonomolo just went over a few of the comments from two of the consultants. I would like to quickly run through mine, and perhaps during the course of that offer some

1
2 suggestion or way to move forward with the visual
3 analysis that has not been done for this
4 application yet. I recently sent out an
5 additional information request. Although the
6 application was complete as per the Code, we felt
7 there were several other items we need to get
8 more objective engineering type information on in
9 order to complete our analysis for this site.

10 First in terms of aesthetics, one of
11 the things we had asked the applicant to pursue
12 was -- indeed this is currently proposed at the
13 northeast or the back end of the property,
14 however looking out front there's also an
15 existing flagpole. We're just curious if there's
16 other configurations or locations on the subject
17 property that the pole may be able to move to. I
18 think that would give this Board certainly some
19 more flexibility in evaluating this application
20 as it moves forward.

21 I do request a copy of the NIEPA
22 letter. I'm glad to hear that's evidently
23 together.

24 I guess one question I did have was why
25 was there that type of analysis to begin with?

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Was that because of the proximity to Powelton or the Hudson River, or if there's any other reason that kicked in that analysis? Typically we don't see that from applicants once it comes together.

MS. BONOMOLO: Do you want me to respond?

MR. MUSSO: Sure.

MS. BONOMOLO: As far as the NIEPA analysis, because Omnipoint operates pursuant to a Federal license it's considered a Federal action and they're required to do NIEPA for all of their sites. So there wasn't any particular location that triggered that, there's always a NIEPA analysis done.

With respect to alternate locations on the property, we did discuss with the landlord the possibility of going in the area of the existing flagpole and the landlord felt that due to the base equipment that needs to go at the bottom of the flagpole, that they did not want that in the front here, prominently in front of the building, and it would be better tucked away where the dumpster location is. It's less visible in that area. As far as I believe, over

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2 here is an existing septic field, which is why
3 the facility couldn't go in that area. I think
4 that this is the best location since it minimizes
5 any visibility of the base of the flagpole
6 because of the existing building, and it is
7 located away from the main roads and away from
8 any existing adjacent development. So unless
9 there's a specific reason why an alternate
10 location on the property would be better, I'm not
11 aware of a possible alternative but I would think
12 we should just move forward with this location
13 with respect to the balloon test.

14 MR. MUSSO: That's certainly an option.
15 I would still petition we do look at this other
16 site. You're going to see this from the roads
17 anyway, 9W and 84. The Powelton Club is back
18 here. Actually moving it this way probably will
19 not sacrifice significant views or increase
20 significant views to the south and to the west
21 but in fact putting it on this side of the
22 building may use this building to shelter those
23 views to the east and northeast. We'll scope
24 that a little bit further. Again it's the
25 feasibility. I think the applicant is going to

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answer that.

Ground based equipment cabinets do not always have to be at the base of the tower. Typically that's where they are. There's a couple flagpole applications that I've worked on where for example there could be some trenching that's done, there could be some room in the basement. Some of that is, though, in order of the power loss depending on the amount of cable that's run. Again it's a question of due diligence and feasibility why or why not an alternate site could work. Again, option number one is right here but we want to know if there's another option.

I also just pointed out the section of the Code regarding the visual impact analysis that was done. I was just going to ask I guess the NIEPA letter, is that including any kind of balloon test or visual or is that just a letter that's being submitted tonight?

MS. BONOMOLO: This is just a copy of SHPO's determination that the facility will not have an adverse impact on the Powelton Club or on any historic resource which included the Powelton

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Club since that was the only historic resource identified.

MR. MUSSO: Okay. Do you know offhand if that was based on a radial map analysis or was there actually a balloon that was flown at some point?

MS. BONOMOLO: I believe there were visual simulations submitted to SHPO. There was an initial submission to the State, the State requested that a visual analysis be done so that they could make a final determination, and based on the visual analysis and the renderings that were submitted the State determined it would not have an adverse impact.

MR. MUSSO: It would be great if I could take a look at those renderings that were done in the past. Although it's not part of the application, it didn't have to be noticed, as I'll get to in a minute, just knowing what they based that determination on I think will help us streamline and scope the visual analysis, and I think quite frankly help the applicant a little bit too. If some of that work has been done I think we can focus this effort that's coming up.

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One of the things we asked for or just pointed out, I know the applicant is aware of this having worked with Omnipoint prior, is noticing that takes place as per the Town Code. I believe it's seven and fourteen days. It's something we would suggest or certainly recommend to get that going sooner than later. Early spring coming, mid spring certainly. As you get into April you have more leaves on the trees coming out. A conservative analysis for visual impacts is certainly at this time of year or early spring when there's no leaves on the trees. If you see a balloon during certain times or this time of year you may not see it in the middle of summer or in the fall when the leaves are up. So that's just something I believe if you want to comment on that.

MS. BONOMOLO: On the visual?

MR. MUSSO: The schedule.

MS. BONOMOLO: I mean we're prepared to move forward with the visual analysis as soon as possible.

MR. MUSSO: Okay. The other -- I guess as you can see these things interact. Again the

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2 feasibility of possibly an alternate site, I
3 think that's something that has to be determined.
4 I would suggest flying a balloon at both
5 locations and even splitting up the eight-hour
6 day that's required under Code, that way some
7 visual influence maps could be developed for both
8 of those locations. Again, that's something I
9 think I could scope further with the applicant on
10 how to do that. The first question that would
11 have to be answered is indeed what's the
12 feasibility of the alternate site.

13 MS. BONOMOLO: At this point the
14 landlord has indicated that they're not willing
15 to allow us to put the flagpole there. We can
16 certainly go back and ask again, but I would also
17 be interested in knowing from this Board if this
18 would be a preferable location to this location
19 before we were to even move forward with that.

20 MR. MUSSO: I don't think the Board
21 could say at this point.

22 MS. BONOMOLO: I mean why is this a
23 better location than this location?

24 MR. MUSSO: I'm not saying it's better,
25 I'm saying it's another option.

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MR. BROWNE: Excuse me. A flagpole goes in front of the building, in the back of the building. From that perspective it's a better site just from a flagpole perspective. Your comments about the landlord saying no, that was based on the ground equipment being outside in the front, okay. According to Mike it could go inside or someplace else further away with the right power distribution. We don't know that yet. That has to be looked at.

MS. BONOMOLO: Right. I have seen equipment located separately from the flagpole. Typically, and Mike and I are working on another application in a different municipality where the equipment is located separate from the flagpole but it is still fairly adjacent to where the flagpole is going, there is power loss. If you have a cable run first from the equipment over to the flagpole, then it still has to go 140 feet up the flagpole so you can only go a certain distance.

MR. BROWNE: Why don't we get some numbers and we can look at it.

MS. BONOMOLO: We can look at that and

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we can approach the landlord and find out if without the equipment they would be willing. If they're not willing than we can't move the flagpole to the front.

MR. MUSSO: I guess just to add to what Ms. Bonomolo said, there's an existing flagpole obviously here, although this would be taller and --

MS. BONOMOLO: Yes.

MR. MUSSO: -- a little wider in diameter. Again that's just something that I think we could give another option.

CHAIRMAN EWASUTYN: I think we can look at that also under a hard look determination even as far as SEQRA. So we would be giving it a hard look. I think it would be recommended to provide both possibilities.

MS. BONOMOLO: Sure. I mean if it's feasible from a leasing standpoint and the landlord is willing to allow us to move it. If we can locate the equipment distant from the flagpole and all those things work out, then we can pursue it further.

CHAIRMAN EWASUTYN: As far as a

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decision making process for SEQRA, the Planning Board would need to know of your possible lease with the tenant -- the owner of the building. So we'll follow the recommendation of Mike Musso.

MR. MUSSO: As part of the visual influence analysis that will come together, the applicant noted photo simulations or photo renderings that are done. The first step of that would be to develop an aerial map based on a topography, or land use map, a readily available map showing the subject property and going out a designated radius. It's usually a mile or two. We did that last year with another application awhile back. The first thing to do would be to look at topography and also look at historic properties. We just heard about the Powelton Country Club. Residential districts, schools and parks. Of course superimposed on that would be the major roadways which should show up on this map anyway. That map would be used to scope where you would focus in the field when you're flying this balloon, locations you would take photos from and be particularly interested of where a facility built here would be visible

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2 from. So that's the first step. That map then
3 is brought into the field and during the
4 eight-hour balloon test visibility is confirmed
5 off of that. It's something I know this
6 applicant has prepared before. We're working on
7 another application now where we're preparing
8 that. It's something that this Board has seen
9 before, at least at another site. So I can
10 certainly scope that with the applicant or
11 whoever the visual person is going to be. Just
12 to let the Board know that's usually the steps.
13 You develop the map, you get a good understanding
14 of site use, site features within an area, and
15 that scopes where you're going to take pictures
16 from or where you're going to drive through and
17 document visible or not visible when the balloon
18 is flown.

19 I think in summation we're going to
20 find out about an alternate -- possible alternate
21 location at this property, we're going to
22 schedule a balloon test as per the Code with the
23 proper noticing. I would give input about flying
24 the balloon in one or two locations and stay in
25 touch with this Board as a liaison with the

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applicant between now and the time this balloon test is done.

Again, I think we should target by mid April for the field work. Of course it will be a lot of desktop work with the reports submitted to this Board but I think that's an appropriate schedule at this point to follow.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Also with waiving the setback limits, there are reasons why those limits were set in place, and without having the proper information I'm not willing to consider it. From what Mike mentioned, in order to consider that we have to have some kind of --

MR. DONNELLY: Not in order to consider it. If you were to grant the waivers you'd have to state your reasons why you would be doing it.

MR. BROWNE: We do know that the setback limits were put in place for a reason. Until I see information that tells me that whatever those reasons are this is okay, I'm not willing to consider that.

MS. BONOMOLO: Well, I think the standards for that waiver are set forth in your

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Code.

MR. BROWNE: If the pole comes down and it's 140 feet it's going to hit where?

MS. BONOMOLO: We are going to submit a full structural report but that would have to be done as a condition of approval and before the issuance of a building permit. In order to actually design the facility you need to do a geotechnical investigation. Due to the work and the cost involved in that, it's unfair to ask an applicant to undertake that if perhaps --

MR. BROWNE: But you're asking us to grant you a waiver without having information.

MS. BONOMOLO: Right. But we would not be able to -- it could be -- your approval would be conditioned upon that and we wouldn't be able to get a building permit or a signed site plan or however the Board operates until we submitted that and it was satisfactory to the Board because it depends again on where the facility is located. So to undertake and do that investigation -- I mean we've done work with Mike before in the past where typically these types of full structural analyses are not done until after

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the approval is issued because of the work that they do entail.

MR. BROWNE: That has people in it.

MS. BONOMOLO: Is it the issue of the setbacks or the building?

MR. BROWNE: That's part of it. You're right there. You're ten feet away, fifteen.

MR. HINES: I believe that your wireless code has a setback from occupied structures with the collapse zone, does it not?

MR. MUSSO: I think it's the property line.

MS. BONOMOLO: I believe it's to the property line.

CHAIRMAN EWASUTYN: All right. There's some issues that we're not certain about right now and we need more information about that, both the location of the pole where it sits, where it's proposed or where it's being suggested it may be considered as the possibility of a waiver for the side and rear requirements. We need certain information in order to make a decision as far as the possibility of a waiver. So this is the purpose of meeting like this, it's to

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introduce the project, to have open discussion and to leave here with a sense of what the goals are.

Ken Mennerich, please.

MR. MENNERICH: One other question. On the balloon test, it would be done for the 140-foot elevation. Would there be alternatives done for some lower elevation?

MR. MUSSO: Yes. One of the things that I'm asking for, and I could talk about after the visual, as the applicant rep mentioned there's a total of five antenna slots, if you will, that are currently proposed within the pole. Omnipoint has three antennas at the top slot, three at the second slot for a total of six. There are three additional slots that are allocated for possible co-location in the future. One of the things that I've asked Omnipoint, although they may or may not be able to, is to go and speak or get information from other carriers that are interested in co-location. I think it's great we heard tonight there is one other carrier in our area, Verizon, who has expressed interest for co-location.

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2 One of the things I'm going to ask are
3 coverage maps at lower heights from the 140 feet,
4 both to assess a little bit better alternate
5 heights for Omnipoint but also what the realistic
6 approach is to future co-location down at 110,
7 105 feet. Even below 100 feet is the bottom slot
8 right now, what it's being proposed at. Do they
9 speak for other carriers? No. Every carrier is
10 different, different frequencies. Generally the
11 PCS frequencies that are used by Omnipoint could
12 give us a general idea of whether or not the co-
13 location is feasible. Because of that and
14 because I'm also asking if they can get further
15 information about other carriers besides Verizon,
16 it could be possible, although it's very
17 premature for me to say, 140 feet may not be the
18 final height of the structure on this property.
19 That analysis has not been done yet. I want to
20 emphasize that.

21 One thing we could do is when we're
22 doing a balloon test is actually two separate
23 heights. Out there in the field it may make a lot
24 of sense to do that. That's one of the things
25 I'll scope out as well. Not only the possibility

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2 if it works out for an alternate location on the
3 property but actually 140 and maybe 130 or
4 something like that. I have to put some thought
5 to that. That will be a time where photo
6 simulations and visibility can be done. If you
7 have a red balloon at one height and a yellow
8 balloon at another height kind of knocking out
9 the visual analysis for actually two heights at
10 the same time. I think it's an opportunity to do
11 that now at the same time.

12 MS. BONOMOLO: Usually sometimes what
13 you can do is like attach a flag at a different
14 height along the rope that's flying the balloon
15 so that you can see it scaled off.

16 We did submit a map 10 feet lower in
17 height demonstrating that if Omnipoint was to
18 lower the height of the flagpole that they would
19 lose coverage along Route 84 to the west and
20 along Route 32 to the northwest. It wouldn't be
21 connecting up to Omnipoint's existing site. So
22 that 140 feet is the minimum height that
23 Omnipoint needs to remedy it's gap.

24 MR. MUSSO: We're analyzing that.
25 We're looking at that info.

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CHAIRMAN EWASUTYN: Is it possible, would the Board want to consider when this visual is done to somehow project if the monopole was a tree type design, to have that type of comparison, that was one of the comments that was made this evening, or is the Board satisfied at this point with the monopole that's designed to look like a flagpole?

MR. GALLI: The flagpole idea -- the question during the work session is if you're driving by, a normal person looking at it, I was told you wouldn't be able to tell the difference if it's a flagpole or cell tower pole, whatever you want to call them.

CHAIRMAN EWASUTYN: That would be more satisfying.

MR. GALLI: The tree looks phony on top.

MR. BROWNE: I think the trees look ugly.

CHAIRMAN EWASUTYN: That answers that question. We'll work with that design, the monopole that would look like a flagpole.

MR. MUSSO: Also the photos that are

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taken during that test by the applicant rep, by their professional, bear in mind they're taking pictures of a balloon. If there is something that comes to your head about another style or another stealthing, perhaps we could present that down the road.

MS. BONOMOLO: Right.

MR. MUSSO: I would have to agree. I know we did discuss during the work session for this part of the Town with kind of the commercial area, the road. I have worked on a few flagpoles in a similar situation. The antennas are nested completely within the pole. You're not going to have anything besides a flag, of course if that's chosen. Any kind of loose materials or artificial limbs. I know we've had some dialogue before about the stealth trees and what people think about them. I think it's wise to at least move forward with the flagpole at this time.

CHAIRMAN EWASUTYN: Cara, why do you think it would be functional for others to co-locate, as an example Verizon, at a height that would be less than 140 feet? Why would that work for them whereas with Omnipoint -- how can

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you possibly attract, I guess I'm saying, other co-locators at a height less than 140 feet?

MS. BONOMOLO: As Mr. Musso explained, different carriers have different needs. There are different technologies. Verizon uses a different technology than Omnipoint operates at a different frequency so their signal travels differently. They may not have the same gap, they may not have existing sites in the same area and they would be able to locate at a lower height. I'm not saying that, I haven't seen their maps, but they have expressed interest here. The carriers' coverage does not all look the same.

MR. MUSSO: Of course per your Code if there is a structure built already, co-location is high on the priority list. It could be possible if there is something there already to sacrifice a few feet, I think another carrier would move in that direction. We've seen it here with a lot of co-locations we've worked on in the past. These are the questions we've posed in our memo regarding coverage and possible co-location.

MR. BROWNE: That's another point.

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2 With the comments on not being able to co-locate
3 on the water tower, we heard this side of the
4 story. We don't really know what happened there.
5 Do we have any leverage? If our Code points us
6 to trying to use an existing facility, obviously
7 there's a facility close to this one, it was
8 already said that was tried to work out. I would
9 like to understand for myself from both sides if
10 it's possible to find out.

11 CHAIRMAN EWASUTYN: It's almost like
12 having some kind of disclosure.

13 MR. DONNELLY: I think there is an
14 affidavit that indicates that the attempts were
15 made and they were not feasible. You want more
16 detail on what that means?

17 MR. BROWNE: I guess that's for --

18 MR. DONNELLY: If you're mandating that
19 they always co-locate, you put obviously that
20 other landlord in the caterbridge seat and they
21 can charge whatever they want.

22 MR. BROWNE: From your perspective that
23 would satisfy the need for a separate facility?

24 MR. DONNELLY: Well, what the law does
25 is it prioritizes sites and requires that an

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applicant first attempt to test the feasibility for both the coverage as well as an analogy point of view whether a given existing site can be utilized. If for any reason it can't feasibly be used, they're not wedded, they move on to another site. I know we don't know all the details of the negotiations but there was not a meeting of the minds.

MR. BROWNE: From our Code standpoint the documentation that she has satisfies that end of the business?

MR. DONNELLY: I think that if the applicant has told you, which would clearly be cheaper for them to co-locate, that they could not come to terms and that's why they're developing another site, that's the explanation you should live with.

MS. BONOMOLO: I mean your Code requires it and Omnipoint would typically look to use an existing structure before constructing a new facility.

MR. MUSSO: There is an affidavit by the land acquisition person. Working across from Omnipoint in other municipalities, we have

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discussed this site quite frankly about Mid-Valley. I know they've been trying to get there. That was their number one site for the area and it's not successful.

CHAIRMAN EWASUTYN: That affidavit is part of this record?

MS. BONOMOLO: Yes.

MR. MUSSO: Yes, it is.

CHAIRMAN EWASUTYN: Additional comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

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

MR. CANFIELD: Nothing.

MR. HINES: I have nothing.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: In my comment in reference to looking at different visuals, I thought that you should look at the flag versus no flag basically. So just to do visuals showing the flag and without showing the flag.

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MS. BONOMOLO: That's fine.

CHAIRMAN EWASUTYN: Is the Board in agreement with that?

MR. GALLI: Yes.

MR. BROWNE: Yes.

CHAIRMAN EWASUTYN: Mike, would you like to add anything at this time?

MR. DONNELLY: No. You do need to authorize Mike to schedule --

CHAIRMAN EWASUTYN: I think at this point we would be declaring our intent for lead agency. We have to circulate to the Orange County Planning Department.

I would move for a motion to -- there's three parts to this motion -- declare our intent for lead agency, to circulate to the Orange County Planning Department and to authorize Mike Musso, our Telecommunications Expert, to arrange and to set up the necessary public hearing for the balloon -- we're not actually doing a crane test; correct? This is just a balloon test?

MS. BONOMOLO: Balloon test.

CHAIRMAN EWASUTYN: That's in reference to Section 168-62 of our Code.

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2 MR. MUSSO: Yes. If I could clarify
3 that. It is in quotations called a balloon test.
4 That's something -- I mentioned what I would do
5 is coordinate some of the field methods that are
6 done. We recently ran into this. We were going
7 to do a balloon test, I pushed heavily for a
8 crane and it was very effective we did because
9 there were 30 mile-an-hour winds and the balloon
10 would have been down at an angle not only showing
11 not the location of where the site is proposed
12 but a lower height, and I think that would have
13 had a significant affect on the viewshed analysis
14 and the drive through.

15 CHAIRMAN EWASUTYN: Diminished the
16 impact.

17 MS. BONOMOLO: We would have had to
18 reschedule.

19 CHAIRMAN EWASUTYN: We're actually
20 moving the possibility of having a crane in
21 place, is that what you're saying?

22 MR. MUSSO: That's what I would like to
23 talk to the applicant about. If there are winds
24 and adverse effect I think we could postpone it
25 or call it off. It might be easier to do it in

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2 one shot if we know we're going to have a sunny,
3 clear day. I'm worried about waiting because
4 once you have foliage up, that may change things
5 a little bit too. A crane test may make sense.
6 I'll discuss that with the applicant. That's not
7 going to sway in the winds. Your heights are
8 surveyed, you hang flags or balloons from
9 different points to simulate the heights. I
10 think it's a more reliable, robust method to use.
11 CHAIRMAN EWASUTYN: Having a motion,
12 I'll move for that approval.
13 MR. BROWNE: So moved.
14 MR. GALLI: Second.
15 CHAIRMAN EWASUTYN: I have a motion by
16 Cliff Browne. I have a second by Frank Galli.
17 Any discussion of the motion?
18 (No response.)
19 CHAIRMAN EWASUTYN: I'll move for a
20 roll call vote starting with Frank Galli.
21 MR. GALLI: Aye.
22 MR. BROWNE: Aye.
23 MR. MENNERICH: Aye.
24 CHAIRMAN EWASUTYN: And myself yes. So
25 carried.

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MS. BONOMOLO: Can I just ask for a point of clarification? Will the Board provide input to Mr. Musso on specific viewpoints that they would like or will you be relying on Mr. Musso just to select them? I don't want to get into a situation where you say what about this area, did you take a picture from this area. If we could discuss that now or if you could make those suggestions to Mr. Musso at another time and we could work with him, that would be fine.

CHAIRMAN EWASUTYN: That's a good point. Would the Board like to work with the advice from our expert, Mike Musso, as far as naming those locations?

MR. GALLI: I think in the past he's done an excellent job on picking the locations that we need to see because he's familiar with that. I've had no problem in the past on the different views we've had from different towers. I think he knows what the Town is looking for, he knows the site area and he knows what we need to look at as far as 84, 9W, residents.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I agree.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I agree.

CHAIRMAN EWASUTYN: And myself, I agree.

MS. BONOMOLO: Procedurally at what point would we schedule a public hearing on the application?

MR. DONNELLY: My recommendation to the Board is they need to close out SEQRA first. We need the results of the visual analysis.

MS. BONOMOLO: Okay.

MR. HINES: Is there a need to light this tower? Is there going to be lighting on the tower?

MR. MUSSO: The bottom.

MS. BONOMOLO: Only if there's an American flag flown, there would have to be lighting to illuminate the flag at night.

CHAIRMAN EWASUTYN: Is your question is it in the flight path?

MR. HINES: That can change the visual impacts greatly.

MR. MUSSO: There is an FAA determination. I've asked for a little bit more

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detail on that. I wouldn't have expected there would have been any requirement for painting or striping or lighting. The application says exactly that, that there is no need to light for FAA.

CHAIRMAN EWASUTYN: Any additional questions?

(No response.)

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

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: Cara, thank you.

MS. BONOMOLO: Thank you.

(Time noted: 7:45 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: March 25, 2008

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

----- X

In the Matter of

LAXMI PROPOSED DUNKIN DONUTS
(2006-23)
5277 Route 9W
Section 40; Block 2; Lot 20
B Zone

----- X

SITE PLAN

Date: March 20, 2008
Time: 7:45 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

----- X

MICHELLE L. CONERO
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CHAIRMAN EWASUTYN: Laxmi proposed
Dunkin Donuts will not be reviewed.

(Time noted: 7:45 p.m.)

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

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

DATED: March 25, 2008

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

- - - - - X

In the Matter of

NEWBURGH TOWN CENTER
(2006-41)

Route 300 & Little Britain Road
Section 97; Block 3; Lot 1
IB Zone

- - - - - X

SITE PLAN
ARCHITECTURAL REVIEW

Date: March 20, 2008
Time: 7:46 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: DOUGLAS CROSSLEY &
ANTHONY COPPOLA

- - - - - X

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CHAIRMAN EWASUTYN: The next item of business we have is Newburgh Town Center. It's a site plan and a discussion of ARB, it's located in an IB Zone and it's being represented by Douglas Crossley and AJ Coppola.

MR. CROSSLEY: Good evening. Greg Shaw sent his apologies that he can't be here tonight, nor can the developer, Mr. Danza, so I am here tonight to present this to you along with AJ, as Mr. Chairman said.

We were last before you on December 13th and a few times before that. The project has been heavily reviewed since the 13th. Mr. Shaw and our consultants have been working with your consultants on the various comments and issues that needed to be addressed on the project.

Rather than belabor all that with you again tonight, we're here hoping that you guys can address the SEQRA determination, determine if the Board wants to hold a public hearing on this project, and given those decisions to determine whether the project warrants preliminary approval tonight.

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So given that, we'll be happy to answer any questions you have. If you want AJ to present the architectural, we can do that now.

CHAIRMAN EWASUTYN: AJ, do you want to give us a look at the architectural?

MR. COPPOLA: Sure. Basically when we were here last time, a couple months ago -- the buildings are more or less the same that they were before. There's three buildings. We have a low level, one-story, 4,000 square foot retail we're calling building number 2; the center building is approximately 26,000 square feet, Staples; and another retail tenant there; and then the Walgreen's building which is 14,000 square feet. So we've developed all three buildings -- all elevations and all buildings and all the signage. I'll explain the signage last.

Basically this is the colored rendering that we have here, and I have a couple copies of it if anybody wants it. This is retail building number 2, the 14,000 square foot building. Basically there's a series of retail tenants in here that are about -- most of the ones in the center are under 2,000 square feet. On the end

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2 closest to 300 is IHOP which is here. We've done
3 some work on that side elevation which will be
4 pretty important. That elevation is underneath
5 here. There's a double reversed gable there.
6 There's going to be a Quizno's in the center and
7 then this will most probably be a bank on the
8 opposite end with a drive-through there.

9 Basically this facade is a mixture of
10 different materials. We're trying to highlight
11 the individual facades and store fronts here. As
12 you kind of go through the building, on the end
13 here, this is IHOP's part of their franchise
14 trademark and logo. That facade there with kind
15 of a bracketed gable up in the top, that's on the
16 end here, you can barely see that there.
17 Basically as you move through it we have a
18 mixture of the cultured stone, the blue metal
19 roofing, the stow beige facade. That's a two-
20 toned system as you move through. Then the blue
21 metal roofing alternates there. Then we've
22 introduced some brick at the end where the bank
23 is. I have materials here if anybody wants to
24 see colors and everything for that.

25 Starting with this building, we've used

1
2 that same vocabulary for the other two buildings,
3 the Wal-Mart -- the Walgreen's building and the
4 Staples building. On the Staples building it's
5 again that same color, stow here, the two-tone
6 stow, the same cultured stone, the same detail
7 for the column and the detail. The difference
8 here is Staples' trademark red which they would
9 prefer, and that's in this area here. This
10 building also kind of has another facade here as
11 you're coming in off Old Little Britain Road,
12 this tenant here. We kind of have a second
13 entrance right here. So that's the facade you
14 would see off that site. It's kind of a wrap
15 around -- again, this is a blue metal roof, the
16 same tapered column, cultured stone, stow.
17 Last is the Walgreen's building.
18 That's kind of a chamfered corner entrance which
19 you may have seen on other Walgreen's. They like
20 that corner entrance and that's what we've
21 developed here with kind of a high monument
22 there, metal roofing, bracketed corners. Again
23 it reads in the same materials, cultured stone,
24 the blue metal roofing and the two-tone stow,
25 again all in their kind of franchise prototype.

1
2 Just a couple other things. Going back
3 to the first building, this building we looked
4 pretty closely at the air conditioning and the
5 rooftop units. This building will only have
6 rooftop units but we brought the walls up so that
7 all of the walls are at least four to five feet
8 higher than the interior roof. So this roof
9 doesn't -- there's no outlet except for the
10 interior roof drains. So all of these mechanical
11 units will sit well below that roof line inside
12 there, and then of course this gable here which
13 you see from this side, you know, comes way up
14 higher, 25 feet even, from behind that roof.
15 I think we've done a pretty good job of kind of
16 wrapping the building around and making sure
17 nobody sees any mechanical units there.

18 Last but not least I'll just go into
19 the signage analysis we did which kind of needed
20 some explaining here. We're proposing basically
21 a sign structure. It's a four-sided, 25-foot
22 high structure at the entrance here on Union
23 Avenue, and that's shown here. This drawing is
24 just signage. That's the structure that we're
25 showing. It's four sided, it's got four legs

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2 that come down. It's not a two-sided sign. It's
3 basically going to have lettering on three sides
4 and then the side there which faces away from
5 Union Avenue wouldn't have signage on it.
6 There's three sides you can see from Union Avenue
7 that would have signage on it. Again we're using
8 the same materials there that you find on the
9 buildings. It's basically using the same
10 vocabulary similar to what you see kind of at the
11 entrance to Walgreen's and the entrance to the
12 other retail store. So again, the metal roof,
13 the two-tone stow and the cultured stone base.

14 Basically we went through on the
15 signage and showed all the signage for all the
16 facades. We basically looked at them all, boxed
17 them all out, what's the square footage of that
18 sign space in kind of a rectangle, noted those
19 all here, categorized them, showed you the color,
20 the same thing for this, added all those up, and
21 basically we think we're just under what's
22 allowable. It's like 800 square feet of signage,
23 797, and we're allowed, based on road frontage,
24 816. I know there's a couple comments about that
25 but that's the idea of that there.

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CHAIRMAN EWASUTYN: One other thing as far as the architecture, we'll consider under that same umbrella the possible consideration of an alternate light fixture than what is being presented. If you would give that some consideration.

MR. COPPOLA: Sure.

CHAIRMAN EWASUTYN: There were some comments made on that to consider providing us with some alternates to that.

MR. COPPOLA: Sure.

MR. CROSSLEY: The signage or the site plan?

CHAIRMAN EWASUTYN: Light fixture.

MR. COPPOLA: The site lighting.

CHAIRMAN EWASUTYN: The poles itself and the heads on the poles.

Any questions from the Board Members as far as the architecture for the building itself?

MR. GALLI: I think they look pretty nice.

MR. BROWNE: From what I've seen it looks decent.

CHAIRMAN EWASUTYN: Ken Mennerich?

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MR. MENNERICH: I agree.

CHAIRMAN EWASUTYN: At a later point the Board will request some more information in reference to the comprehensive guidelines for signage. We'll be critiquing that a little bit more closely than how it was looked at this evening and presented this evening. As you said, there have been comments made and I think we still --

MR. COPPOLA: You have to study that.

CHAIRMAN EWASUTYN: -- have to study that and make some recommendations.

MR. COPPOLA: Okay.

CHAIRMAN EWASUTYN: At this point, if the Board is ready, we'll look at the site plan issues as it relates to SEQRA. Pat Hines -- we'll start with Jerry Canfield. Jerry.

MR. CANFIELD: Just fire protection issues. At the work session we had discussed some internal traffic movements. I'm sure this comment will be echoed down the line. Specifically behind the Walgreen's, fire protection wise the concern is access coming in off Old Little Britain Road, making that turn in

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behind Walgreen's, that building there. I'm not really sure of the radiuses and the capability of the jurisdictional fire department's vehicle accessibility.

We request verification of the volume of pressure of the water in the area. These comments are jointly from the jurisdictional fire department.

Also there's a question with respect to the water line, the available water line on Old Little Britain Road, whether it's an eight or twelve-inch. I know Mr. Shaw had a conversation with the jurisdictional fire department representative with respect to that.

A couple technical items. When it comes to the utilities, the fire department connections on the Walgreen's building and also retail building 2, they're located in the actual loading dock area. They should be relocated to a less traffic prone area.

We have consideration for four hydrants that are fire hydrants that are located in actual parking areas. We have suggestions for relocating them to a more accessible and

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convenient spot.

That's all I have on fire protection.

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

MR. HINES: I have both my comments and Bryant's. I'll go over mine first and then we'll touch on Bryant's. The project is proposed to be constructed in two phases with the retail 1 and 2 and the Staples being constructed in the first phase and Walgreen's in the second. We'll need some additional information on site security, bonding and notes regarding that. There are two separate plans that have been prepared showing the various items that will be constructed and utilities will be brought into the Walgreen's site during the initial phase.

We had comments on the hydrants that Jerry Canfield had just mentioned.

The City of Newburgh flow acceptance letter will be required prior to any final approval.

We're suggesting that the license agreement and access agreement with the City of Newburgh be submitted to Mike Donnelly for his

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review regarding the drainage issues to the rear of the site, and the agreement with this site and the City of Newburgh to utilize some of the property in the Washington Lake -- to the rear.

We have reviewed the stormwater management plan as revised. Previously it was going to discharge down Old Little Britain Road to the vicinity of Murphy's ditch at Washington Lake. Those plans have been revised to move the detention pond facility to the rear of the Staples building in the corner of the property there with the discharge to Washington Lake.

In addition, based on our comments and comments from the City of Newburgh's engineer, the stormwater management plan has been elaborated on or increased to treat the entire water quality volume in the detention pond rather than the ninety percent which is typically required. They brought it up to a hundred percent.

An oil/water separator has been added to be utilized in case of a spill or accident on the site. It shall discharge to the stormwater collection system, it will be captured by that

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oil/water separator, and some additional best management practices have been added to the site plan.

The stormwater portion of the project is in good shape.

We suggest the water line be relocated away from the retaining walls closest to the retail building on the south of the site. If it's moved a little further north it can avoid having to go through a retaining wall and will eliminate future access and maintenance issues.

We had a question regarding traffic flow behind Walgreen's also as did Bryant Cocks, Jerry Canfield. I think Ken Wersted will address those.

We're looking for some additional details for a drop manhole and the force main discharge manhole. We talked to the applicant's representative regarding catch basins. That's a design consideration. We were suggesting using curb inlets. He wishes to remain with the flat top catch basins, which we're fine with.

Just a comment that DOT access approval will be required as well as utility permits for

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connection to the utilities in the DOT
right-of-way.

We commented on the trash rack that was
proposed in the stormwater management system to
collect any debris which enters that system and
we suggested that that be removed because it's
going to be maintenance intensive. Should it not
be maintained it will cause stormwater to bypass
the treatment system. I believe the applicant's
representative has concurred with that.

CHAIRMAN EWASUTYN: Okay. Any comments
from our Board Members in reference to the
detailed information that Pat Hines just
presented?

MR. GALLI: No additional.

MR. BROWNE: Nothing additional other
than just mentioning that the current plans are a
lot better than it was from the previous.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Ken Wersted, if you
don't mind, if you could start out with your
recommendation in reference to the Walgreen's.

MR. WERSTED: Sure. Going through the

1
2 site, we had some earlier concerns about the
3 landscaping around the entrance at Old Little
4 Britain Road. In reviewing the landscaping there
5 -- we're not obviously landscape professionals
6 but Karen is. In talking with her there's some
7 concerns about some of the plantings directly at
8 the entrance and sight distance and so forth.
9 There was also a concern about the
10 drive access going around the east side of
11 Walgreen's. It's one way. As you come out
12 towards the -- one of the main entrances there's
13 a series of landscaped islands which is going to
14 hinder your view as well. In addition you've got
15 the loading dock right next to it, you've got
16 some street signs that are in the corner of the
17 loading area. Overall we don't see a big benefit
18 to having the one-way drive access around the
19 back of Walgreen's. People would just as easily
20 be able to come around the front side of
21 Walgreen's and either use the bypass lane through
22 the drive-through area or any of the parking
23 aisles that will connect to the inner loop road
24 and either exit out Old Little Britain Road or
25 continue on to the south and exit out onto 300

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directly opposite Wal-Mart. So with that we recommend that the one-way drive access behind Walgreen's just be removed. I think that will help with part of Bryant's concerns and some of the other's concerns about the loading dock area.

I noticed in responses there is a restriction, a time restriction that we had noted in their responses regarding when that loading dock would operate.

Going on from there, there's some striping and arrow comments. I think they're minor in nature. If there's any questions in particular on those we can talk more about it.

There's a concern over the bus drop off. We talked about that during the work session. We don't believe that a pull off, a bus pull off will be needed just because the frequency of buses through there will be minimal and there's no need to have the bus actually pull out of the drive lane. The bigger question that came up during work session was comments from the County Planning Board Planning Office. The operator of the transit line, where do they actually want to have bus stops? Do they want

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them out on 300? Do they want them internal to the site? We heard mixed views from both of them. Has the applicant had any discussions with the transit operator?

MR. CROSSLEY: I don't believe so, no. We can.

MR. WERSTED: It might be helpful for this project, specifically in a more bigger picture. I'll also be contacting the County and also the transit operator to get more of a general sense as to where they want to have bus stops. Do they want them on 300 or are they willing to go into these smaller developments and make stops internally.

There were some signing concerns, adding some stop signs here and there. We can go over that in more detail if needed.

The traffic analysis that was submitted, there were still some revisions that were asked for that weren't provided, so there's some follow up needed there.

Lastly, there was included in the traffic impact study the intersection of Old Little Britain Road and Route 207. The analysis

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2 indicated that that intersection fails now and
3 it's going to continue to fail in the future with
4 or without the project. However, if a traffic
5 signal was installed it would improve levels of
6 service and so forth. The comment that we had
7 asked is is a traffic signal warranted there.
8 The response that came back was yes. That
9 analysis was based on older standards. The
10 current standards adopted by New York State, the
11 Federal Annual Uniform Traffic Control Devices, a
12 review of that by our office indicates that the
13 intersection will still meet the traffic signal
14 warrants. So one of the topics that we'll have
15 to discuss among the Board and the applicant as
16 well is the mitigation that would be proposed
17 there, the impact of the actual project and any
18 future improvements at that intersection.

19 I think that covered it.

20 CHAIRMAN EWASUTYN: Okay. Comments
21 from Board Members. Frank Galli?

22 MR. GALLI: I just had a comment on the
23 Route 207/Old Little Britain Road side at the
24 work session. The distance from this site and
25 now we're trying to get traffic improvements

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2 there all of a sudden and trying to get fair
3 share contributions. Kohl's is up and we have
4 different things. We're trying to move forward
5 now with the State to try to get different things
6 done with that intersection and not having much
7 luck. The site fails now as far as the
8 intersection goes. I'm not in favor of pushing
9 anything else on the applicant as far as trying
10 to get that particular intersection fixed.
11 That's all I had to say.

12 CHAIRMAN EWASUTYN: Okay. Cliff
13 Browne?

14 MR. BROWNE: I don't have anything
15 more, John.

16 CHAIRMAN EWASUTYN: Ken Mennerich?

17 MR. MENNERICH: I agree with Frank.

18 CHAIRMAN EWASUTYN: Mr. Crossley, do
19 you understand we're making a recommendation that
20 you will not have that drive-through on the east
21 side?

22 MR. CROSSLEY: I don't see any problem
23 with that actually.

24 CHAIRMAN EWASUTYN: So you could convey
25 that back to Mr. Shaw?

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MR. CROSSLEY: I will.

CHAIRMAN EWASUTYN: Karen Arent,
Landscape Architect.

MS. ARENT: During work session we
discussed extending the sidewalks to the roads.
The Planning Board decided that it's not a good
idea since there's no -- the DOT is not in favor
of providing pedestrian crossing over Route 300.

The bus shelter, Ken will be talking
with the bus company and the Planning Department
to determine where the best location for the bus
stop is, so we'll wait for that advice from Ken.

The three Blue Spruces shown close to
intersection sight lines should be eliminated.
There's no need for them.

On the landscape plan they should just
leave all areas intended for lawns so they don't
become giant mulch beds.

On the architectural drawings the
Walgreen's was revised and new facades were in
keeping with the Town of Newburgh design
guidelines.

The mechanical units. Anthony, you
didn't discuss for the other two buildings so I

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would need to see drawings of how you're going to screen those.

MR. COPPOLA: We'll include those on our drawings.

MS. ARENT: On the color rendering you just discussed the blue roof. I think that maybe the Planning Board might want to look at an elevation drawing for example of this showing the blue to see how strong that might be. I know on the Chili's building, once the blue was put up there was some concern about the coloring. I think maybe if -- it's up to the Planning Board. Maybe to see this facade in color to see how strong the blue will be.

MR. COPPOLA: Is that the Walgreen's?

MS. ARENT: It would be nice to also see a sample of that color of blue.

MR. COPPOLA: That I have tonight. You want to render which building?

CHAIRMAN EWASUTYN: I think she's talking about the visual from Old Little Britain Road where you talked about the blue.

MS. ARENT: And this north elevation is like -- the blue is going to be very strong

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2 because there's a lot of roof on here. I don't
3 think that you can see it that well in that
4 rendering that AJ did. I was thinking maybe we
5 should have another rendering just to really
6 study the color choices.
7 CHAIRMAN EWASUTYN: Frank.
8 MR. GALLI: Is the facade part going to
9 be blue or the whole roof?
10 MS. ARENT: The whole roof I think.
11 MR. COPPOLA: Yeah.
12 MS. ARENT: It might look like IHOP
13 land, there's so many blue roofs everywhere.
14 MR. COPPOLA: The wrap around here?
15 MS. ARENT: Yes.
16 MR. COPPOLA: I have it. We can render
17 that. I think that's what you're suggesting.
18 MS. ARENT: Yeah.
19 MR. GALLI: More of a neutral color.
20 MS. ARENT: We should see what it looks
21 like and then make the determination.
22 MR. COPPOLA: The one rendering I gave
23 you is pretty true to the color. We can render
24 that.
25 CHAIRMAN EWASUTYN: I think we can look

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at that in future presentations.

MR. GALLI: I thought just the overhangs were blue.

CHAIRMAN EWASUTYN: It's that whole band.

MS. ARENT: And also Walgreen's has a substantial portion of that blue too which would be right on the corner. I think we should take a careful look at that.

Also the cultured stone. AJ, I was wondering perhaps if you could match the fieldstone out front to give a unified look. Just to consider that.

MR. COPPOLA: The fieldstone?

MS. ARENT: Like the grays of the fieldstone that you see around the Town. That would probably be out front.

MR. COPPOLA: Okay. They are proposing a stonewall.

MS. ARENT: Yes. We should also make sure the stone from the stonewall is specified.

We were going to discuss signage at a workshop perhaps.

CHAIRMAN EWASUTYN: Correct.

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MS. ARENT: The Staples sign is internally illuminated and that's not allowed in the Town of Newburgh design guidelines as well as the marquis type sign, but that's something we'll discuss further. That's it.

CHAIRMAN EWASUTYN: Okay. Any further comments from the Board Members?

MR. GALLI: Just about the Staples sign which we're going to discuss later.

CHAIRMAN EWASUTYN: Recommendations from our consultants as far as making a SEQRA determination. Pat Hines?

MR. HINES: I would recommend the Board issue a negative declaration. Our outstanding comments were regarding the drainage I think which have been appropriately addressed on the site. I think the environmental considerations have been addressed.

CHAIRMAN EWASUTYN: Okay. I'll ask the Board at this time if they'd like to have a public hearing or waive the public hearing. Frank Galli?

MR. GALLI: Waive the public hearing.

MR. BROWNE: Waive.

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MR. MENNERICH: Waive.

CHAIRMAN EWASUTYN: Myself, waive the public hearing.

At this point I'll move for a motion to declare a negative declaration for Newburgh Town Center.

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 response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Mike, would you be prepared to make recommendations for granting preliminary approval in the form of a resolution?

MR. DONNELLY: I know we need DOT approval, a satisfactory construction phasing

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plan, a City of Newburgh sewer flow acceptance letter and all of the required bonding before final approval.

CHAIRMAN EWASUTYN: A satisfactory I guess license agreement with the City. Would that be part of the resolution?

MR. DONNELLY: Yes.

MR. HINES: The consultants' comments.

MR. DONNELLY: Sign off on all the consultants' comment letters. Yes.

CHAIRMAN EWASUTYN: Any additional recommendations for the resolution. Pat Hines?

MR. HINES: No.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: No.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: No.

CHAIRMAN EWASUTYN: Board Members?

MR. GALLI: No.

MR. MENNERICH: I was just wondering, under that resolution is there a provision that keeps open the sign because you're going to work on that and come back with something?

MR. DONNELLY: Comprehensive sign plan.

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MR. HINES: Yes. Bryant has some comments on the sign. I know the applicant's representative has them.

MR. COPPOLA: I guess my question is are we -- you're going to study it but are we doing anything?

CHAIRMAN EWASUTYN: What we're going to do is we're going to set up a consultants work meeting to establish a dialogue --

MR. COPPOLA: Okay.

CHAIRMAN EWASUTYN: -- as it relates to the comprehensive sign guidelines and to work within those guidelines.

MR. COPPOLA: Okay.

CHAIRMAN EWASUTYN: Any additional comments for Mike as far as the resolution?

MR. GALLI: None.

CHAIRMAN EWASUTYN: Okay. Having heard the conditions for preliminary approval and a resolution being prepared by Attorney Mike Donnelly, I'll move for that motion.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli.

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2 MR. BROWNE: Second.
3 CHAIRMAN EWASUTYN: I have a second by
4 Cliff Browne. Any discussion of the motion?
5 (No response.)
6 CHAIRMAN EWASUTYN: I'll move for a
7 roll call vote starting with Frank Galli.
8 MR. GALLI: Aye.
9 MR. BROWNE: Aye.
10 MR. MENNERICH: Aye.
11 CHAIRMAN EWASUTYN: Myself yes. So
12 carried.
13 I'll move for a motion to set this up
14 for the next available date for a consultants'
15 work session.
16 MR. MENNERICH: So moved.
17 MR. GALLI: Second.
18 CHAIRMAN EWASUTYN: I have a motion by
19 Ken Mennerich. I have a second by Frank Galli.
20 Any discussion of the motion?
21 (No response.)
22 CHAIRMAN EWASUTYN: I'll move for a
23 roll call vote starting with Frank Galli.
24 MR. GALLI: Aye.
25 MR. BROWNE: Aye.

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MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

MR. CROSSLEY: Thank you.

MR. COPPOLA: Thank you.

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

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

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

DATED: March 25, 2008

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

- - - - - X

In the Matter of

TRINITY SQUARE
(2008-07)

South Plank Road
Section 60; Block 2; Lot 4.1
B Zone

- - - - - X

CONCEPTUAL SKETCH PLAN
AMENDED SITE PLAN

Date: March 20, 2008
Time: 8:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JAMES RAAB

- - - - - X

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

TRINITY SQUARE

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CHAIRMAN EWASUTYN: The following item of business this evening is Trinity Square. It's a conceptual sketch plan for amended site plan located on South Plank Road adjacent to I-87, it's Zoned B and it's being represented by James Raab.

MR. RAAB: Good evening. Late last year the Planning Board approved a 10,919 square foot building on this site. The applicants, Trinity, L.L.C., have discussed this with their marketing consultants and wish to put an additional roughly 4,000 square foot building on their site. It has all the proper parking. I know there's a comment by Bryant that we include two of the spaces from the original site. We'll make that clear in future submissions.

Basically what we have done is extended it down. It's the same distance off the road as the other building. It will be the same architecture. We wouldn't think of doing it any other way. Since it is a pad site we want it to look just like it.

The architecture was approved for this building. The Planning Board really seemed to

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like it a lot and we want to try to duplicate it somewhat with this building, even maybe putting in a twin tower that will match the tower that was on this building here.

We wanted to get this in front of you before we started sitting down with AJ and discussing how this building was going to be designed, although it's pretty clear cut if it's going to match the other building it's going to match the other building. That's pretty much it.

We have no problems with any of the comments that were made by the consultants.

We would like to make one suggestion and hopefully we can work something out. We understand -- we tried to drop the wall. It wasn't our idea. We were asked to drop the wall from in front of the building. We told them it was a bad idea, now we look like prophets. What we'd like to do is -- Karen, if we could -- gap the wall in thirty-foot increments, okay, near the planted islands on the original site and extend the wall all the way down but have it one, two, three -- four spots, a gap in it and then wrap it around -- try to wrap it a little around

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2 the corner over here so it kind of cuts off the
3 view this way. In that gap would be bermed
4 planting, not flat planting. It would tend to
5 bring it up as high as the top of the wall.
6 MS. ARENT: That might be nice. I'm
7 not sure the thirty feet is a good dimension.
8 Can you do a --
9 MR. RAAB: I'm throwing thirty feet out
10 there.
11 MS. ARENT: I think that might be a
12 nice way so it's not a continuous wall.
13 MR. RAAB: It's 380 feet of wall. It
14 will be 460.
15 MS. ARENT: I think that might be a
16 nice idea. I'd like you to do an elevation view
17 and study the gap and see how much gap would look
18 right with the proportion of wall.
19 MR. RAAB: Yes.
20 MS. ARENT: I think it would be, yeah,
21 nice to study. I like the idea of wrapping it
22 around the corner because that corner will have a
23 lot of impact.
24 CHAIRMAN EWASUTYN: I guess you
25 commented -- I don't know if you had received

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Jerry Canfield's comments.

MR. RAAB: No, I have not.

CHAIRMAN EWASUTYN: Have you?

MR. RAAB: No, I have not.

CHAIRMAN EWASUTYN: Are you e-mailing your comments out?

MR. CANFIELD: I did. I e-mailed them out to the consultants. I don't know if -- I did not e-mail them to the applicants.

CHAIRMAN EWASUTYN: We'll have to get into that.

MR. CANFIELD: We'll do that.

CHAIRMAN EWASUTYN: Jerry, would you give your presentation.

MR. CANFIELD: Just a couple things, Jim. The first thing is on the water line, the way it's proposed on the original site plan works for that building but when you add the second building it looks like you're just coming off with the fire service line to the back of the second building, the new proposed building. I asked that we have a coordinated review with Jim Osborne and Bill Puchalski to go over moving that westerly water tap and adding a hydrant at the

1
2 new building. The reason being that the way you
3 had proposed it, it creates a 200-foot dead end,
4 a four- or six-inch line, I forget what it was
5 that was there, and no means to flush it. It
6 works better for that building being sprinklered.

7 MR. RAAB: Pat had mentioned pretty
8 much the same thing. That's where we thought he
9 was going with his comment.

10 MR. CANFIELD: Another thing with
11 access roads, the Planning Board and the Town are
12 reviewing and have analyzed some new building
13 codes that have been introduced in January of
14 this year and they deal specifically with access
15 roads. Now access roads serviced by fire
16 hydrants are required to be 26 feet in width.
17 That applies to buildings that have not obviously
18 received permits yet. Although this is an
19 amended site plan, is there a possibility that
20 you could provide a 26-foot access road in
21 through the entrance and then down? I believe
22 they are 22 or 24 now.

23 MR. RAAB: The 24 foot aisle. We can
24 look into it. Are you saying we have to have a
25 26 foot now?

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MR. CANFIELD: Yes.

MR. RAAB: All right.

MR. CANFIELD: Delicately I'm telling you that. It's a building code requirement.

MR. RAAB: All right.

MR. CANFIELD: Again, the justification is also with this site now with the westerly building you're creating probably a 400, 500 foot dead-end pocket.

MR. RAAB: Approximately you're right on, about 450, 425.

MR. CANFIELD: So the need for that additional width becomes greater, especially with a site like this. If you could show consideration to that and see if you can provide that.

MR. RAAB: I'm back to the question I had before. If we can't provide it then what happens?

MR. CANFIELD: You don't get a building permit.

MR. RAAB: Well, the way you're putting the question I think you're saying you've got to have 26 feet.

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MR. DONNELLY: You'll have a nice looking site plan with no building permit.

MR. RAAB: All right. We'll have to adjust it. We'll have to make our adjustments.

MR. CANFIELD: Thank you.

MR. RAAB: We have the room to do it. Two foot is not a lot. In some cases it's four feet because we have to have it all the way around the building. Correct?

MR. CANFIELD: Yes.

CHAIRMAN EWASUTYN: So then you do agree that you'll redesign the site plan based upon the consultant's comment; correct?

MR. RAAB: Yes.

CHAIRMAN EWASUTYN: Frank Galli had a question for you in reference to --

MR. RAAB: Two.

CHAIRMAN EWASUTYN: -- the drive-through.

MR. GALLI: What's the building going to be?

MR. RAAB: Right now they are marketing it for either a small pharmacy or bank.

MR. BROWNE: They're all used up.

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MR. RAAB: We go based on their marketing consultants. We're not their marketing consultants. They come to us and tell us what they want.

MR. GALLI: I didn't think there were any banks or pharmacies left.

MR. RAAB: Again you're making me sound like a prophet. That's exactly what I said in the meeting with our clients but they insisted us showing it on here as long as we can meet all the building code things.

MR. GALLI: Are they going to put it up as a spec building or lease it out first?

MR. RAAB: I think they're going to lease it before they build it.

MR. GALLI: So if they lease it to not a bank or pharmacy you won't need the drive-through.

MR. RAAB: Right. Absolutely not.

CHAIRMAN EWASUTYN: Any additional comments from Board Members?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion to -- there will be three parts to the

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2 motion. The first part is to grant conceptual
3 site plan approval; the second part of the motion
4 is to declare our intent for lead agency; and in
5 addition to circulate to the Orange County
6 Planning Department.
7 MR. MENNERICH: So moved.
8 MR. GALLI: Second.
9 CHAIRMAN EWASUTYN: I have a motion by
10 Ken Mennerich. I have a second by Frank Galli.
11 Any discussion of the motion?
12 (No response.)
13 CHAIRMAN EWASUTYN: I'll move for a
14 roll call vote starting with Frank Galli.
15 MR. GALLI: Aye.
16 MR. BROWNE: Aye.
17 MR. MENNERICH: Aye.
18 CHAIRMAN EWASUTYN: And myself yes. So
19 carried. Thank you.
20 MR. RAAB: Will Bryant be circulating
21 this?
22 CHAIRMAN EWASUTYN: Yes.
23 MR. RAAB: So I'll get the necessary
24 copies out to him next week.
25 Thank you very much.

TRINITY SQUARE

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(Time noted: 8:27 p.m.)

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

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

DATED: March 25, 2008

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

- - - - - X

In the Matter of

JWCAH EDUCATIONAL CENTER
(2008-08)

23 Unity Place
Section 97; Block 2; Lot 42
IB Zone

- - - - - X

CONCEPTUAL SKETCH PLAN
AMENDED SITE PLAN

Date: March 20, 2008
Time: 8:28 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: VINCENT DOCE

- - - - - X

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

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CHAIRMAN EWASUTYN: The following item of business is JWCAH Educational Center. It's a conceptual sketch plan for amended site plan, it's located on Unity Place, it's zoned IB and it's being represented by Vincent Doce.

MR. DOCE: Before I get into the presentation I'd like to introduce to you several people who have accompanied me this evening. This is Mr. Joseph Codispodi, he is the patriarch of the firm who prepared the site plan. Sitting to his left is Jeff Gordon who has considerable expertise in landscape architecture, and also you have received in all of your packets a little information about him. You can see that his credentials are rather impressive. Not with us this evening is the project engineer who is Bob Weway who works for the Codispodi firm. And Richard Eldred had to make a trip to Cleveland. You'll recall Richard as being part of the original design team. Sitting to the right of Mr. Codispodi is Jeff Baker. He's the most important man in the organization because he's the guy that says whether I get paid or not, so I

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really appreciate some respect for Mr. Baker.

Now, you will recall several years ago we received an approval for a site plan for the Jehovah Witnesses Assembly Hall located on Unity Place. At that time it was a very large tract of property and when the Witnesses were proposing their site the Town expressed interest in seeing a road extended from Old Little Britain Road out to 17K to help alleviate some of the traffic that was impacting Union Avenue, Route 300. They felt this would be a way to keep the traffic from impacting that intersection between Old Little Britain Road and Route 300. Instead of having a site with a throat in fee ownership out to 17K, the project was developed so that the site would stand alone along Unity Place running from 17K to Old Little Britain Road. At the same time the Town was very interested in pursuing some development in that area commercially to stabilize a tax base in the future. As part of that, as well as building the road, my client also did a site plan in which the rest of the property was subdivided for use in commercial sites such as motels, restaurants, office

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buildings.

Now, at the time of our application we had originally contemplated and did our -- made our initial proposal on 600 parking spaces to serve an 1,800 seat auditorium in the educational center. During our discussions with the Town it was mentioned that there was an option in which we could design our parking lot to serve at a ratio of 1 per 4, and that was 450 parking spaces. The initial notifications for lead agency proposed it as 600 parking places and then it was scaled back to 450. We did acknowledge that if at any time in the future this was not suitable, that we would make arrangements to put in the additional necessary parking spaces. The site was of course constructed, all the landscaping and everything was done, and I think everybody in the Town is very pleased with the aesthetics of the site and how the construction went. It was melded into the community very, very successfully.

Now we come to the point where the parking spaces at the 1 per 4 ratio is just not proving to be sufficient. We acknowledge that we

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2 do have to put in additional parking spaces.
3 Now, it hasn't been on a number of occasions,
4 maybe a half a dozen, maybe seven, eight times
5 during the course of the year when we've become
6 crowded for parking and we've had to make other
7 arrangements. We have brought people in, parked
8 them at a different location and bussed them in.
9 We have asked adjacent property owners if we
10 could, for the day, use their area to park, and
11 we have been able to do that without creating any
12 problems, but we know as the area becomes more
13 developed these options are not going to be there
14 and we might as well bite the bullet, acknowledge
15 that we need more parking and go ahead and build
16 it on acquiescence of this Board.

17 Our other alternative was on these rare
18 occasions that -- Unity Place has been built very
19 wide and it would accommodate some cars along
20 Unity Place. That frankly none of us feel is a
21 viable option. I mean if we're going to do it --
22 if we've done it so professionally as we have up
23 to this point, let us continue to do it
24 professionally and just build this additional
25 parking area in the rear, which is an overflow

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2 parking area but we will pave it, we'll do all
3 the things that are attendant to a parking area.
4 We'll landscape it, screen it as shown, we will
5 not light it as I think Bryant Cocks noted. We
6 have made no provision for lighting. The reason
7 we have not done so is it is overflow parking.
8 It's on an as-needed basis. If sometime in the
9 future there's a need to light it we will
10 certainly come back to the Board and discuss
11 that. We have no intention to do so at this
12 time.

13 There is just one other point. Before
14 I turn this over to Jeff Gordon and the Board and
15 your consultants there is one other point that
16 was mentioned that we may be perceiving the
17 60 percent impervious surface condition. I want
18 to point out that when we first made the
19 presentation and got our approval, Ed Garling had
20 reviewed it and his review of March 13th, I
21 believe, 2001 reviewed it as an educational
22 facility under IDB-19 I think. That clearly
23 states, and I acknowledge that clearly says it's
24 80 percent impervious surface under that approval
25 for educational settings. I just wanted to make

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that point. We are not approaching 60 percent. We're around 56 percent here. I do want to make a point that it was approved and -- it was presented and approved at 80 percent impervious being the maximum even though with the additional we'll have around 56 percent.

We have received the comments from all of your consultants. The planning comments were rather straightforward. There were only seven of them I believe, one of them being that 60 percent coverage and the rest of them are things that we can easily address. As Mr. Codispodi said, there are no show stoppers here.

We also have a Pat Hines' review. Again, that's very straightforward and nothing there that we can not address or that we can not explain.

There were a couple of issues about some deviations on elevations. That was because we're using now the actual field measurements as opposed to those that were on the plan, and Jeff Gordon can address that.

We do have Karen Arent's review. We're fortunate we have somebody of Mr. Gordon's

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credentials to address her review because I am of course not capable, clearly having a problem differentiating between the cell tower you were talking about before and a Christmas tree.

So at any rate, that's where we stand now. We would be glad to answer your questions or the reviews item by item. We would be glad to answer any of your consultants' inquiries or any of those from the Board.

CHAIRMAN EWASUTYN: Thank you. I think at this point we'll turn to Ken Wersted, our Traffic Consultant, who looked at the interior circulation and his comments. Ken.

MR. WERSTED: There's the most obvious. The new parking area is obviously the large parking lot in the southeast corner of the site. There's also a couple of smaller areas in the southwest corner of the parking lot.

MR. DOCE: Here and here. It's just being filled in with a couple of parking places. There's also some over here. Just restriping generally.

MR. WERSTED: The edge along the northern parking lot is proposed to extend

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further to the north and have 45-degree angle parking. The traffic circulation in that area should be one way, obviously in the westbound direction, and some pavement marking with arrows and so forth that would help differentiate that traffic flow and basically inform drivers that's the direction they should be going.

In the southwest corner there's a few spaces that are being added and there's also a fence that exists out there today that looks like it will be very close to those new spaces. We would recommend that the fence be shown on the site plan to be able to see where in relation to those spots the fence is.

MR. BROWNE: Can you be more specific with where the fence is?

MR. WERSTED: Sure. Along Unity Place there's a fence line that goes along the site frontage. At the very southwest corner there's a few parking spots that are being shown and there's a fence that ends right there. It's pretty close to the existing parking lot and now they're expanding the parking lot a little further south. Right at that point is where the

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fence and the parking lot may be within a couple feet of each other. The fence isn't shown on the site plan. We would recommend that the fence be shown on the site plan so that you can see how close it is.

The sidewalk that's being proposed from the overflow lot down to the main building, there's going to have to be, I imagine, some minimum grades and so forth to that. If the proposed grades can be shown on that, we can look at that in terms of slope and so forth.

MR. HINES: There's stairs there.

MR. WERSTED: There's some stairs also in there as well.

As drivers arrive to the site is there any direction in how they're parked? Do they get loaded into one parking lot first and then staff directs them to a different parking lot? The overall question being when the main fields get full will they know instinctively or will people be directing them to the lot?

MR. GORDON: Fully attended.

MR. WERSTED: The other comment just included the security chain across the gate being

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well visible at times when it's not being used, somebody doesn't pull up to it and not see the wire or something going across.

In the main lot on the eastern edge there's a line there. It's labeled as no shelf, no curb. On some of the other plans it shows what looks to be striping there for parking spaces. We just ask that that be clarified.

Lastly, extending down from the sidewalk we would recommend a crosswalk to get them from the main sidewalk along the building at which point they can enter into the main building center.

CHAIRMAN EWASUTYN: Okay. Pat Hines, Drainage Consultant.

MR. HINES: Our first comment had to do with the lot coverage issue. We took that off the bulk table. Apparently it's 80 percent for this zone and they're under the 60.

Our next comment had to do with there are two different curb details, one is an extruded curb detail. Typically the Town requires conventional concrete curbing on site plans. I have a letter I just received from the

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2 applicant stating that they desire the use of the
3 extruded curb detail due to existing structures.
4 I defer to the Board on that. I know they pretty
5 consistently require concrete curbs.

6 CHAIRMAN EWASUTYN: That's been a
7 practice of the Board, to require concrete
8 curbing.

9 MR. DOCE: These are all concrete
10 curbs.

11 CHAIRMAN EWASUTYN: The way he's
12 talking about. I think the six-inch --

13 MR. HINES: Yeah. Conventional
14 concrete curbs.

15 MR. GORDON: They're cast in place or
16 precast.

17 MR. HINES: Either way. Right now
18 they're proposed only to be an inch-and-a-half
19 below the surface.

20 CHAIRMAN EWASUTYN: Standard eighteen-
21 inch curb with a six-inch reveal.

22 MR. GORDON: Our only rationale was
23 with the vegetation that's already existing, we
24 didn't want to disturb to excavate out in certain
25 areas that might be problematic. Whatever.

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CHAIRMAN EWASUTYN: Just as a matter of record, in the future if you're submitting something submit it to the actual table itself rather than to individuals.

MR. HINES: It wasn't the intent to address the comments last night.

CHAIRMAN EWASUTYN: We had that earlier with the attorney Cara when we were looking at the leased site and she submitted her documentation to the Board. Just for a matter of record. Thank you.

MR. HINES: A lot of my comments have to do with the stormwater management revisions. They're offering to provide a revised report based on the various elevations that I had pointed out.

Unity Place is now a Town road and the detention pond is expanding out towards the Town road. There's a cut sheet that I just received of a wooden guide rail. I believe that's going to need to be resolved with Jim Osborne. I'm about 99 percent sure he's going to want a conventional DOT approved guide rail along that area to prevent any vehicles from potentially

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entering the stormwater management facility.

The rest of our comments have to do with the stormwater report which the applicant's representative stated they would provide revisions to.

CHAIRMAN EWASUTYN: Is there anything that you would have to remind the applicant of as far as Bryant's comments in his absence?

MR. HINES: He was suggesting the walkway be six feet and that it needs referral to the Orange County Planning Department. He says it's within 500 feet of New Windsor. I don't know if that's the case or not. That's a stretch there.

CHAIRMAN EWASUTYN: Jerry Canfield, do you have some comments while Pat is looking at that?

MR. CANFIELD: I had just one comment. I apologize, Mr. Doce, for not getting it to you. I met with the jurisdictional fire department and they are requesting if you can add a fire hydrant in the island area of the new proposed parking area on the south side of the building. There is a six-inch main that comes in and there's a

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hydrant. It's relatively simple. I believe it would be to just extend that and add a hydrant in the island area in the back should there be a vehicle fire in that back area. Right where you're pointing.

MR. GORDON: This island back here?

MR. CANFIELD: Right there. In that island area right there.

MR. HINES: I don't see where this is 500 feet from the Town of New Windsor line at all. It's back by Central Hudson really, the line.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect.

MS. ARENT: On the western side of the proposed parking area there will be a pretty good view of that from the public road, so that needs screening. If there's fill being proposed in that area as well as landscaping being shown to remain, that has to be either transplanted or new landscaping needs to be installed in that area.

There should be landscaping -- taller landscaping to screen the parked cars. There's a berm shown on the eastern side of the proposed

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2 parking area. I didn't realize they were land
3 banking some parking there. I was asking for the
4 berm to move a little closer to the parking lot
5 so they would disturb less of the existing trees,
6 but if there is land banked parking areas than
7 that comment can't be addressed. The land banked
8 parking spaces should also be labeled so it's
9 clear what the intent is. There's an existing
10 berm alongside -- right where the proposed drive
11 is going up to the parking area. That's proposed
12 to be relocated to the other side of the drive.

13 Again, we should just be careful of
14 disturbing some of the existing trees. Also, the
15 Blue Spruces are proposed to be transplanted,
16 which is fine, but they need to be included in
17 the plant list so that they are included on the
18 landscape cost estimate because that's -- the way
19 that the facility is screened from the adjacent
20 residential neighbors, and it's still not
21 screened after all these years, the Spruces
22 aren't that big. It would be nice to reuse them
23 but if they die we would need a replacement.

24 The Mountain Laurel proposed on the
25 berm, in my experience Mountain Laurel is very

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difficult to get to grow. It might perform better in the woods. To give a little bit of more space for the evergreen trees to grow.

MR. GORDON: My rationale for the Mountain Laurel is an understory for the evergreens which will lose their lower branches in time. By the time they lose their lower branches the Mountain Laurels should be established. As they shade out and lose lower branches, the Mountain Laurels will fill those gaps. Being planted on the fringe they're more likely to flower than if they are in deep woods has been my experience.

MS. ARENT: It just looks very tight being within five feet of the evergreens. If you gave them a little more space to grow. If you feel strongly to keep it where it is, that's fine. I would encourage you to just look at the idea of maybe giving the plants a little bit more room to grow. Again, I also thought the Forsythias. I understand the concept of screening lower branches but it might be nice to have two layers, a layer in the foreground with the Forsythias and the evergreens in the background,

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to consider having a little bit more space for
the plants to grow.

Then if you can show some shrubs in the
parking lot islands.

MR. GORDON: Your plan doesn't show the
Catawbiense and Rhododendrons that I have in some
of the aisles?

MS. ARENT: No. I only have the tree
plantings.

MR. GORDON: I'm careful with my use in
the islands because of sight distances coming out
of parking spaces.

MS. ARENT: Junipers or plants like
that would be fine.

MR. GORDON: You like Junipers?

MS. ARENT: No.

MR. GORDON: I don't like them either.

MS. ARENT: I don't really like them
but --

MR. GORDON: I have some Viburnum, some
Carle Viburnum over here. I have a few
sprinklins of Catawbiense in the smaller
islands. I couldn't get a tree in there but I do
want to always be careful about height and

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visibility and people parking and driving around and if there is any snow removal activities that take place.

MS. ARENT: Right. That would be fine. If you can consider just showing shrubs in a green island, and also consider the fact it will be full sun until the plants grow so to use sun tolerant plants. I find the Catawbiense and Rhododendrons don't like parking islands, it's too hot and dry around here. We have wind and extreme conditions.

Then there's an oak in the northwest corner of the --

MR. GORDON: The Pin Oak over here?

MS. ARENT: With a lot of fill. If it's a Pin Oak it will have a chance to live.

MR. GORDON: I'm going to give a detail to the Chair here.

Mr. Chairman, can I give her my tree detail?

CHAIRMAN EWASUTYN: Generally speaking we're not in the habit of distributing --

MS. ARENT: I think the Pin Oak has a better chance to live with fill around it.

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MR. GORDON: For the tree well we would remove the fill. I've regraded it so it has a pretty good opportunity to continue to thrive there.

MS. ARENT: Okay. We would just need the details to be put on the drawing.

MR. GORDON: Sure.

MS. ARENT: That's it. And just to encourage you to consider whether it's worth saving the tree, do all that work, or maybe just plant another one.

MR. GORDON: We'll consider that.

CHAIRMAN EWASUTYN: Karen, I think your last comment was to show the clearing limit lines.

MS. ARENT: Yes. Show the clearing limit lines and then put notes on the drawing so that there's tree protection fencing put up.

MR. GORDON: On the erosion control plan we have a silt fence at the limit line demonstrated. We'll label that as such as well.

MS. ARENT: Just put the notes on the drawing.

MR. GORDON: Yup.

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CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: Nothing.

MS. ARENT: I had one more comment. I didn't realize the detention pond was expanding. It you could -- that's very visible from the road. There's a lot of nice plantings there. If you could look at that and make sure it's planted nicely.

MR. GORDON: We did do some supplementary landscaping.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: The initial site that was originally put up, that's a nice looking site the way you did it. Hopefully when you finish this it will be as nice.

MR. GORDON: I appreciate that.

MR. BROWNE: Nothing more.

MR. MENNERICH: I have a question on the parking. On the handicap parking, based on your existing parking situation have you added handicapped spaces on this new plan?

MR. GORDON: Obviously we wouldn't be

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able to do anything there with the staircase.
There is a substantial row of accessible parking spaces over here. We haven't added any but we think we're pretty much in compliance. If we need to restripe we can always add a couple more.

MR. MENNERICH: The other question is do you have buses come in and where do you park those?

MR. GORDON: On occasion there might be -- depending upon the area there might be buses. That was one of the aspects of these spaces over here is that this would be a place where the buses would park, they would line up in lieu of those parking spaces, and it would be attendant directed.

MR. MENNERICH: Thank you.

CHAIRMAN EWASUTYN: Okay. I have three questions. One, you need to show a striping detail which you don't have on the detail sheet.

MR. GORDON: Okay.

CHAIRMAN EWASUTYN: I think we should have the detail sheet have how the steps are being proposed to be constructed and what the aluminum rail looks like that would go along with

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that.

At this point I'll move for a motion to grant conceptual sketch plan approval for JWCAH Educational Center.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

If you could revise your plans and resubmit.

MR. DOCE: John, would you like Jeff and Bob Weway to iron out any questions directly with your consultants and then submit it to the Board?

CHAIRMAN EWASUTYN: If I were going to

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do that I would move for a motion to set it up for a consultants' meeting rather than have independent dialogue back and forth.

MR. DOCE: Any way you wish.

CHAIRMAN EWASUTYN: If you prefer to manage it through a consultants' meeting I think that would be the formula or format for doing it.

I'll move for a motion to set this up for the consultants' work session.

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 response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. GALLI: John, what's the date on that?

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CHAIRMAN EWASUTYN: Bryant manages that.

MS. ARENT: Probably the next Tuesday.

MS. HAINES: The 25th is the next one.

CHAIRMAN EWASUTYN: Scheduling is up to Bryant. If you can fit it in it might be as early as the 25th.

I don't think there's any involved agencies in this, is there?

MR. DONNELLY: I wasn't here with the original approval. I don't know how you handled SEQRA. I don't think anything has been referred. Pat told us the 239 referral isn't needed.

MR. HINES: It was a much larger plan.

MR. DONNELLY: I assume you handled SEQRA and you're still the lead agency. This is an amended site plan. While you'll have to gauge the impacts of the enlarged parking lot, I don't think you need to start SEQRA all over again.

CHAIRMAN EWASUTYN: Thank you.

MR. DOCE: Thanks a lot, guys.

(Time noted: 8:57 p.m.)

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

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DATED: March 25, 2008

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

----- X

In the Matter of

DRISCOLL SUBDIVISION
(2005-46)

Adoption of Findings Statement

----- X

BOARD BUSINESS

Date: March 20, 2008
Time: 8:57 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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

----- X

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CHAIRMAN EWASUTYN: We have a few items of Board business that we'll discuss this evening, the first one being the Driscoll Subdivision, adoption of the Findings Statement.

Mike Donnelly, would you bring us along on that, please.

MR. DONNELLY: Sure. As you know, you accepted and issued an F.E.I.S. on February 8th. The applicant had submitted a draft of the Findings Statement to you at that same time. You have before you I believe a copy of that marked up with the various changes of your consultants. I think the copy you have includes those that I added. They are mostly toward the end, in the implementation section and certification section. I don't know when Bryant sent it along whether it included all of the changes. I don't think they're particularly major. Some of them are language changes. Those that I added had to do with the parkland fee issue which was some change in language, and I added a section at the end as we had done with The Market Place Findings, which I think is helpful, which is an implementation

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2 section that says all of the mitigation set forth
3 in the Findings needs to be incorporated into the
4 plans. Also, given the scale of the plans we're
5 imposing the same requirement we did with The
6 Market Place, and that is to the extent possible
7 the various mitigation measures be carried on the
8 plans so that they are in the trailer on the work
9 site and not tucked away in the Town Hall office.
10 If they don't fit as map notes on the plans they
11 should be submitted as text attachments to the
12 set of plans that's eventually signed. I don't
13 think that's particularly onerous and I think
14 it's helpful all around.

15 I don't know if you have questions you
16 need to discuss.

17 One of the other implementation
18 measures that was referred to earlier is the
19 requirement that a developers agreement be
20 negotiated with the Town Board to include most of
21 the supervisory elements of the requirements
22 during the construction phase.

23 CHAIRMAN EWASUTYN: Anything additional
24 from our consultants. Pat Hines?

25 MR. HINES: No. We reviewed it and

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provided our comments to Bryant and they have been incorporated into the document before you.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: My comments were incorporated.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: Nothing additional.

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

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: Board Members. Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No. I'm good.

MR. MENNERICH: Under traffic, the intersection of Route 300 and Gardnertown Road, the 200 feet of storage, I guess I was under the impression the applicant was going to do that as part of this project and that Route 52/Route 300 one was going to be on a fair share basis. The way this reads now, under the traffic section there it reads that both those intersections would be covered on a fair share basis, but then

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2 when you look in section E-3 it talks about fair
3 share just being for the 300/Route 52
4 intersection.
5 MR. DONNELLY: I thought my
6 understanding was that as well.
7 MR. MENNERICH: I guess if that --
8 okay. If section E-3 is correct then I think
9 we've got to change the traffic section to
10 show --
11 MR. HINES: The left-turn lane is
12 proposed to be put in for this project.
13 MR. MENNERICH: Right.
14 MR. WERSTED: At the corner, yes.
15 MR. MENNERICH: The way this reads it
16 says both these intersections to be a fair share
17 contribution. It's just the one intersection
18 that's fair share, Route 52 and 300?
19 MR. DONNELLY: That's correct.
20 MR. MENNERICH: I think that needs to
21 be made clear in the --
22 MR. DONNELLY: So the language under B,
23 the transportation and traffic section, is what
24 needs to be revised.
25 MR. HINES: The left-turn lane is

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required as a mitigation --

MR. MENNERICH: Right. The left-turn lane with approximately 200 foot of storage will be provided. Maybe just put in parens at the applicant's expense or something.

MR. DONNELLY: During construction of the project. I'll take a look at that section and get it back to Bryant.

MR. MENNERICH: The other thing I was wondering, and maybe this is the intent, but for the garbage waste management it says the residents will individually be responsible for contracting with a garbage hauler for disposal of their trash. I thought we had talked about having the homeowners --

MR. HINES: That was at the Polo Club.

MR. MENNERICH: -- negotiate with a single --

MR. HINES: At the Polo Club we did that because that's a multi-family. This is single-family residences.

MR. MENNERICH: So there could be multiple haulers in there then. Okay.

The recreational needs analysis

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2 section, there's going to be a study. It says
3 upon review of such study the Board determines
4 the proposed recreational facilities -- wait a
5 second. The Board determines that the proposed
6 recreational facilities and land are not
7 sufficient to meet the current and projected
8 recreational needs of the future residents of the
9 subdivision. The applicant will pay such fees as
10 the Town Board determines appropriate. Who is
11 going to do that determination?

12 MR. DONNELLY: It's shared. Under the
13 statute the Planning Board makes the
14 determination of whether suitable recreational
15 facilities that meet the needs of a development
16 can be located on site. If the determination is
17 made by the Planning Board that they can not be,
18 then the applicant is required to pay a fee in
19 lieu of the provision of parklands. The amount
20 of that fee is set by the Town Board either
21 legislatively or on a case-by-case basis. I
22 think one of the things that was left open as a
23 possibility here is that if the needs study shows
24 that some but perhaps not all of those needs can
25 be met, that the fee can be changed from the

DRISCOLL SUBDIVISION

122

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2 statutory or legislative amount to something less
3 because there is a large amount of passive
4 recreation being provided here. The question
5 becomes is that fully what the needs will be
6 because there may be some need for more
7 formalized ball fields that go beyond the sum of
8 the formalized recreation space here. There are
9 two boards that have jurisdiction here. Yours is
10 the findings of suitability and adequacy, the
11 Town Board is the amount.

12 MR. MENNERICH: That's it.

13 CHAIRMAN EWASUTYN: Having heard from
14 our consultants, having heard from Board Members
15 and suggesting some changes and corrections in
16 the Findings Statement for the Driscoll
17 Subdivision, I'll move for a motion to adopt the
18 Findings Statement subject to the corrections
19 that were stated this evening.

20 MR. MENNERICH: So moved.

21 MR. GALLI: Second.

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

25 (No response.)

DRISCOLL SUBDIVISION

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CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Frank Galli.
MR. GALLI: Aye.
MR. BROWNE: Aye.
MR. MENNERICH: Aye.
CHAIRMAN EWASUTYN: And myself yes. So
carried.

(Time noted: 9:03 p.m.)

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DATED: March 25, 2008

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

----- X

In the Matter of

ORCHARD HILLS
(2003-41)

Schedule for the Consultants Work Session
on March 25, 2008

----- X

BOARD BUSINESS

Date: March 20, 2008
Time: 9:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

----- X

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I'll move for a motion to set three projects -- what's the date on that, Dina?

MS. HAINES: March 25th.

CHAIRMAN EWASUTYN: I'm sorry, Dina. You should be doing Board Business.

I'll move for a motion to set Orchard Hills, Newburgh Retail Developers and Shyam for the March 25th consultants meeting.

MR. GALLI: So moved.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a motion by -- who was that -- Frank Galli and a second by Cliff Browne. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 9:04 p.m.)

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DATED: March 25, 2008

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

----- X

In the Matter of

NEWBURGH RETAIL DEVELOPERS
(2005-33)

Schedule for the Consultants Work Session
on March 25, 2008

----- X

BOARD BUSINESS

Date: March 20, 2008
Time: 9:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

----- X

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I'll move for a motion to set three projects -- what's the date on that, Dina?

MS. HAINES: March 25th.

CHAIRMAN EWASUTYN: I'm sorry, Dina. You should be doing Board Business.

I'll move for a motion to set Orchard Hills, Newburgh Retail Developers and Shyam for the March 25th consultants meeting.

MR. GALLI: So moved.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a motion by -- who was that -- Frank Galli and a second by Cliff Browne. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 9:04 p.m.)

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DATED: March 25, 2008

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

----- X

In the Matter of

SHYAM
(2005-51)

Schedule for the Consultants Work Session
on March 25, 2008

----- X

BOARD BUSINESS

Date: March 20, 2008
Time: 9:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

----- X

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CHAIRMAN EWASUTYN: I'm sorry, Dina. You should be doing Board Business.

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MR. GALLI: So moved.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a motion by -- who was that -- Frank Galli and a second by Cliff Browne. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 9:04 p.m.)

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DATED: March 25, 2008

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

----- X
In the Matter of

MARINA & VETERINARY ZONING LAWS

Memo from Bryant Cocks dated 3/17/08
Memo from Ken Wersted dated 3/18/08

----- X
BOARD BUSINESS

Date: March 20, 2008
Time: 9:04 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

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CHAIRMAN EWASUTYN: Dina, I apologize.
You should be managing this.

MS. HAINES: The next thing is the marina and veterinary zoning laws. We got one memo from Bryant on March 17th and an e-mail from Ken Wersted on March 18th. Bryant is not here to discuss his memo but Ken can I guess discuss his e-mail.

CHAIRMAN EWASUTYN: Mike, I thought you were going to take the lead on this.

MR. DONNELLY: I can do that. I have those reports. I don't know to what extent you need to discuss them. You've seen the law. Bryant makes some comments. If you want to look first at the marina local law, what he has raised is several setback questions, a lot surface coverage question, and he goes on to explain what the setback ones are. I didn't spend a lot of time with this because I knew Bryant was going to do it for you. I was going to write the letter to the Town Board reporting on your findings. If you want to incorporate Bryant's report I can put that in the letter.

CHAIRMAN EWASUTYN: I think that would

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be satisfactory to the Board. Does anybody want to add anything to that or make any changes?

MR. BROWNE: I had maybe a stupid question. Why is this not considered spot zoning?

MR. DONNELLY: Well, I didn't really look at the map. The concept of spot zoning is this: If you take a portion of land and create -- say you have a business zone and you drop down a residential zone right in the middle of it to satisfy one landowner and it's out of keeping with everything else in the area, that's usually the concept of spot zoning. On the other hand you can have only one location where a particular zoning district resides in the Town, and I think at least for the marina it would be -- there's only a handful of locations where it makes sense. Generally, though, if you're zoning just for one landowner to the detriment of everyone in the surrounding area without any reference to a comprehensive development plan or a well ordered plan for the community, that would be considered inappropriate spot zoning. When you have unique features like an area that I assume the Town

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Board feels at least that it's worthy of consideration, that is suitable for something like a marina, you wouldn't have a marina district anywhere else other than in a spot. I think the mere fact that it's one place doesn't mean it's impermissible spot zoning in the sense you stick it somewhere to satisfy one person without regard to anything else.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: Nothing.

CHAIRMAN EWASUTYN: Ken Wersted, do you want to review your comment with us before I move for a motion from Mike Donnelly to refer this back to the Town Board?

MR. WERSTED: I can. My comments I guess really weren't specific to the law that's being considered, it was more of background stuff that I've experienced and so forth. Just going to school out in Rochester I know the City or Town of Fairport built up a little area along the canal and those with boats may have more insight into services and so forth along the river. With that there was also an incident, I think it was last year where there was a lot of flooding on

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the Mohawk and there were several boaters stranded on the canal between the lochs systems where they really couldn't get out of there for weeks. The local community basically took them in and showed them the hospitality through the restaurants that they had close enough and just had their amenities, washing clothes and so forth.

With that there was also two other projects that I'm aware of along the Hudson, one of them just south of Albany and the other one I believe is in Kingston. Both of those are projects that include marina uses as well as a mix of retail -- convenience type of retail for the boaters as well as either some residential or some office as part of kind of a larger mixed use project, one of the amenities being on the river and having the marina as part of it. It was really more of just some background and experiences from other locations.

MR. DONNELLY: Cliff, one other item. This is actually called an overlay zone, so it really isn't one spot. It's eligible to be in the area of the Town where the Hudson River shore

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exists.

MR. BROWNE: I was just kind of curious because of the other things going on with these kinds of things. Thank you.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to refer our review comments from Garling Associates, Bryant Cocks, to the Town Board for their consideration for the rezoning.

MR. MENNERICH: So moved.

MR. DONNELLY: I take it you're recommending in favor that they consider Bryant's comments in their discussions.

CHAIRMAN EWASUTYN: Correct.

I have a motion by Ken Mennerich.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

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CHAIRMAN EWASUTYN: Myself yes. So
carried.
MR. DONNELLY: You have the veterinary
office local law. Do you want to take the same
action?
CHAIRMAN EWASUTYN: Bryant had no
comment on that.
MR. DONNELLY: Do you want to recommend
favorably on it?
CHAIRMAN EWASUTYN: I'll move for a
motion that we recommend favorably to the Town
Board for the proposed veterinarian zoning law
change.
MR. MENNERICH: So moved.
MR. GALLI: Second.
CHAIRMAN EWASUTYN: I have a motion --
thank you, Mike -- from Ken Mennerich. I have a
second by Frank Galli. Any discussion of the
motion?
(No response.)
CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Frank Galli.
MR. GALLI: Aye.
MR. BROWNE: Aye.

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MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

(Time noted: 9:11 p.m.)

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

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

DATED: March 25, 2008

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

----- X
In the Matter of

QUARTERLY SITE INSPECTION
MARCH 29, 2008

----- X
BOARD BUSINESS

Date: March 20, 2008
Time: 9:11 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

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

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CHAIRMAN EWASUTYN: What time would
the Board like to meet on the 29th for a
quarterly site inspection?

MR. GALLI: 9:00.

CHAIRMAN EWASUTYN: Okay. Dina, I know
you're arranging for the van.

MS. HAINES: It's already arranged.
I'm picking up the key on Friday. Everything is
all set.

(Time noted: 9:12 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: Marc 25, 2008

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

----- X
In the Matter of

EXECUTIVE SESSION

Litigation involving Exeter (2002-26)
and Muhr & Kane

----- X
BOARD BUSINESS

Date: March 20, 2008
Time: 9:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

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

EXECUTIVE SESSION

146

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2 CHAIRMAN EWASUTYN: I'll move for a
3 motion to enter into executive session to
4 discuss pending litigation with the Exeter
5 Corporation.
6 MR. DONNELLY: As well as Muhr and
7 Kane.
8 CHAIRMAN EWASUTYN: And Muhr and Kane
9 also.
10 MR. GALLI: So moved.
11 MR. BROWNE: Second.
12 CHAIRMAN EWASUTYN: I have a motion by
13 Frank Galli. I have a second by Cliff Browne.
14 Thank you.
15 (Time noted: 9:13 p.m.)
16 (Time resumed: 9:42 p.m.)
17 CHAIRMAN EWASUTYN: We had a motion
18 from Frank Galli and a second from Cliff Browne
19 to enter out of executive session. There was no
20 action taken.
21 I'll move for a motion to close the
22 Planning Board meeting of the 20th of March.
23 MR. GALLI: So moved.
24 MR. MENNERICH: Second.
25 CHAIRMAN EWASUTYN: I have a motion by

EXECUTIVE SESSION

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Frank Galli. I have a second by Ken Mennerich.
I'll ask for a roll call vote starting with Frank
Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

(Time noted: 9:43 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: March 25, 2008

