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

----- X

In the Matter of

ELM FARM SUBDIVISION  
(2000-09)

Request for an Extension of Final Approval  
from April 20, 2017 to April 20, 2018

----- X

BOARD BUSINESS

Date: April 20, 2017  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

----- X

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

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of April 20th. This evening we have seven items on the agenda. The last two items are public hearings.

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

MR. GALLI: Present.

MS. DeLUCA: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Code Compliance Supervisor.

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

MR. WERSTED: Ken Wersted, Creighton

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Manning Engineering, Traffic Consultant.

CHAIRMAN EWASUTYN: Okay. At this point we'll turn the meeting over to Stephanie.

(Pledge of Allegiance.)

MS. DELUCA: We'd like to ask you to please turn off your cell phones or put them on vibrate. Thank you.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to Frank Galli to discuss the Board Business that we have.

MR. GALLI: Tonight we have two items of Board Business. The first one is, "John P. Ewasutyn, Chairman, Town of Newburgh Planning Board, Newburgh, New York. Elm Farm Subdivision, Planning Board file 2000-09. Wells Road and Fostertown Road, Town of Newburgh, Orange County, New York. Dear Chairman Ewasutyn, final approval for the above-mentioned project is set to expire on April 20, 2017. The applicant is requesting a one-year extension of this final subdivision approval. Please place this matter on the Planning Board's next available agenda for consideration. Please do not hesitate to contact our office if you have any questions. Very truly

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yours, KC Engineering and Land Surveying, P.C.,  
Jason A. Pitingaro, PE, Vice President."

CHAIRMAN EWASUTYN: I'll move for a  
motion -- Michael, the date then would be the  
20th of April 2018?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: I'll move for a  
motion to grant the Elm Farm Subdivision an  
extension for one year ending on April 20, 2018.

MR. WARD: So moved.

MR. DOMINICK: Second.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried.

(Time noted: 7:03 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 11th day of May 2017.

*Michelle Conero*

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MICHELLE CONERO

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

----- X

In the Matter of

TRINITY SQUARE  
(2006-53)

Request for a Six-Month Extension  
of Preliminary Site Plan Approval  
from May 17, 2017 to November 17, 2017

----- X

BOARD BUSINESS

Date: April 20, 2017  
Time: 7:03 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

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TRINITY SQUARE

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MR. GALLI: The second one we have is dated April 7, 2017, "John P. Ewasutyn, Planning Board Chairman, Town of Newburgh Planning Board, 308 Gardnertown Road, Newburgh, New York. Anthony Cocchi, Junior, Trinity Square Site Plan, South Plank Road, (NYS Route 52), Section 60, Block 2, Lot 4.1, application number 2006-53. Dear Mr. Ewasutyn, at the November 17, 2016 Planning Board meeting the preliminary site plan approval for the Trinity Square project, 2006-53, was given an extension that expires May 17, 2017. Mr. Cocchi is requesting another six-month extension of this approval. If you have any questions or comments, please feel free to contact our office. Thank you for your time and consideration. Respectfully, Darren C. Doce."

CHAIRMAN EWASUTYN: I'll move for a motion to grant a six-month extension through the date of, that would be November 17, 2017.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Motion by Frank

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TRINITY SQUARE

8

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 7:05 p.m.)



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That hereinbefore set forth is a  
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IN WITNESS WHEREOF, I have hereunto  
set my hand this 11th day of May 2017.

*Michelle Conero*

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MICHELLE CONERO

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

----- X

In the Matter of

McDONALD'S  
(2017-14)

1403 New York State 300  
Section 60; Block 3; Lot 41.21  
IB Zone

----- X

INITIAL APPEARANCE  
AMENDED SITE PLAN

Date: April 20, 2017  
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  
STEPHANIE DELUCA  
KENNETH MENNERICH  
DAVID DOMINICK  
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ALAN ROSCOE

----- X

MICHELLE L. CONERO  
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Wallkill, New York 12589  
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McDONALD'S

11

CHAIRMAN EWASUTYN: The first item we have this evening is McDonald's. It's located on Route 300 and it's in an IB Zone. It's being represented by Alan Roscoe. It's here for an ARB approval.

MR. ROSCOE: Good evening, folks. I don't know if it would help to put this up.

CHAIRMAN EWASUTYN: Please.

MR. ROSCOE: Should we face it out to the audience?

Good evening. Alan Roscoe from Core States Group. Our local office is in Boston, Mass.

We're here tonight to discuss the site, which is ironically right down the street at the entrance to the Newburgh Mall. We're here on the first phase of our permitting seeking building approval. The next phase will be our site plan improvements. We're here tonight to introduce the new program in the northeast region. It's called MRP. It's a major remodel. It's really a modernization of the appearance of the buildings here in the northeast, using a very neutral color palette and giving the building a very fresh

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McDONALD'S

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appearance.

I have a copy of our survey site plan which shows the location. North is pointing to the right. As you go north on Route 300 down here, this is the McDonald's building and the Newburgh Mall out behind.

We have elevation drawings as well.

It's a new appearance. The prominent feature, I think you might notice, is that the peaked roof on the tower is going to be truncated. So it will be a flat roof and it will make the building a lot more modern looking and in keeping with some of the other competitor franchises, providing a similar modern look. I'm not an architect so I won't begin to try to explain the nuances. At this particular location there will be some improvements to the vestibule, there will be trellises and canopies provided over the drive-up windows. Basically, again, another kind of color palette for the appearance of the facility.

In terms of the site improvements which will be coming later, this is also woven in.

It's going to be side by side, so a dual drive-

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through configuration. It will allow the drive-through operation to be a little bit more efficient. An offshoot of that is we're reducing impervious surfaces, so there's a commensurate improvement in the stormwater generation and a lot more green space provided when we have the finished product.

I have floor plans here, which I like these changes. This is the floor plan here. The Route 300 side is facing up. This is the vestibule improvements. The improvements around the drive-up windows and the pay stations are shown on these drawings which the Board has. I understand there are some comments, which I'm sure we can address, in terms of comparison tables for existing and proposed signage, details on the landscaping. Other items will come forward with the site plan submittal.

In terms of the building submittal, we're seeking input and we'd like to move things forward.

CHAIRMAN EWASUTYN: Alan, do you happen to have any color renderings of what you're proposing?

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McDONALD'S

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MR. ROSCOE: Yes, I do.

CHAIRMAN EWASUTYN: Would you mind,  
please.

MR. ROSCOE: This is a prototypical  
program rendering. It may not be the exact  
representation of this particular site. That  
shows you the color palette and how the  
modernization of this program is intended. Very  
neutral colors, very aesthetically pleasing.

MR. GALLI: I just have a question. I  
see this one is nice and landscaped. The one up  
there has no landscaping. Is there landscaping  
proposed for the new one?

MR. ROSCOE: Yes. That will come  
forward with our site plan submittal.

MR. GALLI: Okay.

MR. DOMINICK: Is this what it's going  
to look like or is this just a suggestion?

MR. ROSCOE: That's a prototype  
rendering. Again, it's not this particular site,  
but again, it gives you a sense of the materials  
and the color palettes that we'll be using. Very  
neutral, very modern looking and a refresh of the  
brand.

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CHAIRMAN EWASUTYN: You'll be closing down during the course of this --

MR. ROSCOE: Well the intent is to try to stay open as much as possible. The kind of phase, the improvements, some of the interior work, you know, may cause some shutdowns. From a site plan perspective, the area that will be worked on is really right around and in the drive-through portion. We'll be constructing two lanes, so one lane can be built while the other is in operation. They'll try to do some of the work at night if they can, if they're allowed, you know, internally so they don't have to shutdown operations. But there may be depending upon the store.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: No additional.

MS. DeLUCA: No.

MR. MENNERICH: I think it's much improved architecturally compared to what's there now.

MR. DOMINICK: You talked about landscape improvements. Can you touch on that a

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McDONALD'S

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little more?

MR. ROSCOE: I don't have an example of the standard side-by-side configuration. It's basically an expansion of the drive-through area. It makes one lane divided in two and then they come back to merge with the pay station. So that little island in the middle, right now it's paved or concrete, becomes a landscaped island. Depending upon the site and the configuration of the drive-through, there's opportunities there for more. We'll come forward with our site plan and we will show if we're going to be adding landscaping and a lot more green space.

CHAIRMAN EWASUTYN: There's some existing flowering Cherries and flowering Crab Apples on the north side of the building facing east that's really exhausted. The flowering Crab Apples along the west side of the building is somewhat exhausted. The Mugo Pines on the entryway drive to leave are somewhat exhausted. I think overall, based upon when this site plan was originally completed and the longevity of plants in general, I think you might want to look at a total rejuvenation of the plantings out



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McDONALD'S

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there.

MR. ROSCOE: Absolutely. Absolutely.

MR. WARD: If you're going to be trying to keep business going, I'd like to know next time you come the exterior work being done. It's a very busy place all the time. Under construction with the traffic that goes in and out, just try to find out on the proposed plan what you're doing.

MR. ROSCOE: Certainly.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to Jerry Canfield, Code Compliance.

MR. CANFIELD: Just for clarification, what we're seeking tonight is we're just viewing the ARB?

CHAIRMAN EWASUTYN: Correct.

MR. CANFIELD: And then at a later point the site plan issues will be brought back before the Board?

CHAIRMAN EWASUTYN: Alan?

MR. ROSCOE: Yes.

MR. CANFIELD: Should you seek ARB

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McDONALD'S

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approval tonight then, would you then be seeking a building permit for the renovations and then coming back for the site work?

MR. ROSCOE: That would be the game plan. If we could do internal work inside the building, do some of the interior modifications while we're going through the review process for site plan, that way it helps phase the work, too. As you're aware, site plan approval is months away. So if interior work can get done, those crews can move off the site and we can focus on the exterior.

MR. HINES: I think you'll be able to do the facade work as well under the building permit.

MR. ROSCOE: If that's allowed, then yes.

MR. CANFIELD: There's no increase to the building footprint. If the Board chooses that the ARB approval would be appropriate, then yes, we could proceed with the building permit. Okay.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: The only other issue with

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McDONALD'S

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the ARB is the changing of the signs and the need to work with the building department to make sure that it doesn't exceed the amount of signage on the entire site. It's not just your leased pad, it's the entire Newburgh Mall site --

MR. ROSCOE: Right.

MR. HINES: -- regarding the signage. Hopefully when the Newburgh Mall had it's upgrade many years ago someone had a sign chart for us so we don't have to go through that whole exercise.

This is similar to what the Board saw for many of the chain restaurants along 300. I think every one, they're going right down the line doing their corporate upgrades.

MR. ROSCOE: The signage package, it should echo what is there now. Obviously we know the constraints. They're trying to, again, refresh the brand and make it not minimal but just provide the signage that's adequate for the customer experience and for safety. So there will be the reserved signs for people who need to park to have the food brought out to them, there's a clearance bar that's new that will replace the one that's there, and there's an

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McDONALD'S

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order station that will have some small signage on it.

MR. HINES: The traffic control signs aren't an issue. It's the branding --

MR. ROSCOE: It's part of the whole package. We'll try to echo what's there now.

CHAIRMAN EWASUTYN: Okay. Michael?

MR. DONNELLY: It is an action subject to SEQRA, so you'll have to issue an appropriate declaration. I don't think there are any environmental issues.

MR. HINES: No change to the footprint, no exterior earthwork or anything.

MR. DONNELLY: A negative declaration would be fine. Your standard ARB resolution will simply state that whatever work is done has to be consistent with the plans.

I don't know if the full application packet with the specification of materials has been submitted. If not, we'll make it a condition that it's done either by a sample of the materials or by manufacturer's designation exactly what it is you're using. Lastly, we'll include a condition that says the signs are

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McDONALD'S

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subject to the approval by the Code Compliance Department.

CHAIRMAN EWASUTYN: Your drawings itself are rather detailed as far as the color and materials. We have a basic form that's part of the application. That should be completed also.

MR. ROSCOE: All right.

CHAIRMAN EWASUTYN: Any additional questions or comments?

MR. DOMINICK: What's the timeframe once permits and approvals are met? What's your timeframe for this project?

MR. ROSCOE: It would be as immediate as we can.

MR. DOMINICK: From start to finish? Two months, three months?

MR. ROSCOE: I don't think it would be that long. Once we get permits in place -- all the materials are ordered, and as soon as they come, you know, McDonald's will be after it to get the thing done. It won't be overnight but, you know, it will be faster than you think.

MR. DOMINICK: Okay.

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McDONALD'S

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MR. CANFIELD: Are the materials on site?

MR. ROSCOE: What time is it?

MR. DONNELLY: They're in the tower.

MR. ROSCOE: No. They haven't pulled the trigger yet but they are on order. Once permits start to get in hand, the materials are produced and the signage packages and all the building facades.

CHAIRMAN EWASUTYN: Any additional questions?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to declare a negative declaration and to grant ARB approval for the McDonald's located on Route 300 subject to the conditions that will be written by our Attorney, Mike Donnelly.

MR. DOMINICK: So moved.

CHAIRMAN EWASUTYN: A motion by Dave Dominick.

MR. WARD: Second.

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

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McDONALD'S

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MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion  
carried.

Alan, thank you.

MR. ROSCOE: Thank you very much,  
folks. See you soon.

(Time noted: 7:18 p.m.)

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

----- X  
In the Matter of

ALDEN & KERRY JONES LOT LINE REVISION  
(2017-08)

27 Pheasant Hollow Road  
Section 2; Block 1; Lots 92.12 & 90  
RR Zone

----- X

LOT LINE REVISION

Date: April 20, 2017  
Time: 7:18 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: STEVEN PAULI

----- X

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

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CHAIRMAN EWASUTYN: The second item of business this evening is the Alden & Kerry Jones lot line revision. It's located on Pheasant Hollow Road in an RR Zone. It's being represented by Steve Brooks I believe.

MR. PAULI: Steven Pauli.

CHAIRMAN EWASUTYN: Pauli.

MR. PAULI: Mr. Chairman, Members of the Board, it's still the same lot line revision you saw last month between tax map lot 92.12 and 90.

The revisions made to the map, based on last month's meeting, were including a 25-foot fee strip to tax map parcel 60, allowing access off the end of Pheasant Hollow Road.

The revisions to the map were we added the offset distance from the kennel showing that we met our front yard setback.

We did submit a revised project narrative and application reflecting these changes.

We did receive an affidavit of notification for the mailings.

We added three new notes, one parcel A

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-- notes 9, 10, 11, and then most recently 12 reflecting the no underground encroachments along this 25-foot strip. I will read note 9. "Parcel A to be conveyed and combined with tax map lot 90 is not considered onto itself a lot." Parcel B -- note 10, parcel B, "To be conveyed combined with tax map lot 60. Not considered to be a building lot." "Lot 2 together with and subject to all provisions with the special permit the home occupancy use granted by the Town Board -- the Town of Zoning -- Zoning Board of Appeals in July of 1995." So again, we added the 25-foot strip back to tax map lot 60.

CHAIRMAN EWASUTYN: Pat Hines, you have reviewed the changes to the lot line maps that Steve Pauli just presented.

MR. HINES: Yes. The changes that were addressed are all changes that we suggested at the previous meeting.

Combining tax lot 60 into this has allowed there to be fee access to tax lot 60 which was previously a landlocked parcel. So by providing the flag lot arrangement there, now it has access to the private roadway. The resulting

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lot from tax map 92.12 is greater than 5 acres,  
so it does not need a septic design at this  
point. It will need one prior to getting a  
building permit.

I did provide the standard note  
language to Mr. Pauli earlier today and I think  
it's been added to the map. We can carry it as a  
condition.

Otherwise the notifications have been  
sent. We received the paperwork regarding that.

The Board is in a position to grant the  
lot line approval should it wish to.

CHAIRMAN EWASUTYN: Any comments from  
Board Members?

MR. GALLI: No additional.

MR. DOMINICK: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Mike Donnelly,  
would you please present the Board with a  
resolution for final approval.

MR. DONNELLY: First, it is an action  
subject to SEQRA so you'll have to issue a  
negative declaration before taking action.

The conditions are the standard ones.

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The first is the addition of the map note which you've already done but we'll carry as a condition. You'll have to submit one reproducible mylar and one paper copy. You must file a map with the Orange County Real Property Tax Service. You must show accurate acreage changes for their purposes. We'd like you to copy us on your letter transmitting that map to the Real Property Tax Service for filing. Similarly, you're going to have to convey those parcels by deed, and we'd like to see your letter transmitting those deeds to the Orange County Clerk. After filing we'd like you -- wouldn't like you, we'd require that you provide the Planning Board with two copies of the lot line change plat certified by the office of the Orange County Clerk.

MR. PAULI: All right.

CHAIRMAN EWASUTYN: Any comments from Board Members?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to declare a negative declaration for the Alden & Kerry Jones lot line revision, and

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also for final approval subject to the conditions that were presented by Mike Donnelly, Planning Board Attorney, in the resolution.

MR. MENNERICH: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion carried.

Steve, thank you.

MR. PAULI: Thank you very much.

(Time noted: 7:25 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 11th day of May 2017.

*Michelle Conero*

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MICHELLE CONERO

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

----- X  
In the Matter of

DeGROAT & SMITH  
(2017-13)

68 & 78 Forest Road  
Section 3; Block 1; Lots 33.11 & 33.22  
AR Zone

----- X

INITIAL APPEARANCE  
LOT LINE CHANGE

Date: April 20, 2017  
Time: 7:25 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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Wallkill, New York 12589  
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CHAIRMAN EWASUTYN: Our third item of business this evening is DeGroat and Smith. It's a lot line change located on Forest Road in an AR Zone. It's being represented by Larry Marshall.

MR. MARSHALL: Good evening. As the Chairman stated, this is a lot line change transferring approximately 1.24 acres of land from the existing tax parcel 3-1-33.22 to tax map parcel 3-1-33.11. The lot line change does not affect the lots in any manner as far as using wells or septic systems. It's just a straight transfer of land.

The existing parcel in the front owned by DeGroat does have a house that's too close to the property line along the side yard at 26.7 feet and will require a variance due to the 30 foot minimum requirement. We would ask that the Board allow us -- refer us to the Zoning Board of Appeals to request that variance.

Other than that, the two lots are in conformance with zoning.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We concur with that

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statement. The existing lot 33.22 has a deficient side yard, 26.7 feet where 30 is required. It's an existing condition but it loses it's pre-existing condition protection because of a change in the lot size. That will need to go to the ZBA.

Then at least ten days prior to coming back before this Board notifications must be mailed out to property owners within 500 feet. There's no public hearing requirement for the lot lines but the notification requirement will have to be complied with.

So a referral to the ZBA would be appropriate.

CHAIRMAN EWASUTYN: Any questions or comments from Board Members?

(No response.)

CHAIRMAN EWASUTYN: Mike Donnelly, you'll prepare a letter to the Zoning Board of Appeals.

MR. DONNELLY: I will.

MR. MARSHALL: Thank you very much.

(Time noted: 7:27 p.m.)

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

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*Michelle Conero*

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MICHELLE CONERO

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

----- X  
In the Matter of

FABRIZIO TWO-LOT SUBDIVISION  
(2017-05)

Gardnertown Road  
Section 51; Block 9; Lot 9  
R-1 Zone

----- X

TWO-LOT SUBDIVISION

Date: April 20, 2017  
Time: 7:28 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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CHAIRMAN EWASUTYN: Next is the

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Fabrizio Two-Lot Subdivision located on

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Gardentown Road in an R-1 Zone. It's being

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represented by Talcott Engineering.

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MR. BROWN: Thank you. Since our last

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meeting of the Planning Board, which was February

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2nd, we've been to the Zoning Board. We got the

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necessary variances.

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We went to the Town Board for approval

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for the hookup and the outside user agreement.

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They can't proceed with that until we get a

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negative dec from this Board.

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We've also made some revisions based

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upon comments from Jim Osborne, the Town

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Engineer.

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We sent a request for a flow acceptance

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letter to Jim also back in March, March 29th.

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CHAIRMAN EWASUTYN: Again I'll turn to

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Pat Hines.

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MR. HINES: Just noting that the

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variances were received back on the 23rd of

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March.

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A common driveway access and

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maintenance agreement will be required for the

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shared driveway for this lot, this subdivision proposed lot 1 and existing tax lot 4.21. It's an existing condition where that driveway crosses one of the lots in the subdivision.

The highway superintendent's comments, are those outstanding?

MR. BROWN: I haven't seen anything.

MR. HINES: A shared utility arrangement is going to need to be filed, or some sort of maintenance agreement. The sewer in this area is a low-pressure force main and they are tying in the two new lots into one connection at the frontage. There's a small portion of the sewer line that will be shared.

Charlie, did you get your City of Newburgh sewer acceptance letter?

MR. BROWN: We haven't received that yet.

MR. HINES: This Board is restricted from taking action until that is received.

The project requires a public hearing, which the Board could schedule.

We would recommend a negative declaration.

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CHAIRMAN EWASUTYN: Jerry Canfield,

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Code Compliance?

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MR. CANFIELD: We have nothing

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additional.

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CHAIRMAN EWASUTYN: Board Members?

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MR. GALLI: I have nothing.

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CHAIRMAN EWASUTYN: Okay. Based upon

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the recommendation of Pat Hines that we can make

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a SEQRA determination tonight, I'll move for a

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motion to declare a negative declaration on the

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Fabrizio Two-Lot Subdivision on Gardnertown Road

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and to set a public hearing date for May 18th.

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MR. MENNERICH: So moved.

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MR. WARD: Second.

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CHAIRMAN EWASUTYN: Motion by Ken

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Mennerich. Second by John Ward. I'll ask for a

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roll call vote starting with Frank Galli.

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MR. GALLI: Aye.

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MS. DeLUCA: Aye.

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MR. MENNERICH: Aye.

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MR. DOMINICK: Aye.

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MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Aye.

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MR. BROWN: Thank you.

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(Time noted: 7:31 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 11th day of May 2017.

*Michelle Conero*

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MICHELLE CONERO



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

----- X  
In the Matter of

LAKESIDE SENIOR HOUSING  
(2016-19)

21 Lakeside Road  
Section 86; Block 1; Lots 39.22 & 39.23  
IB Zone

----- X

SITE PLAN

Date: April 20, 2017  
Time: 7:31 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: BARRY MEDENBACH

----- X

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CHAIRMAN EWASUTYN: The fifth item of business we have this evening is Lakeside Senior Housing. It's located on Lakeside Road in an IB Zone. It's being represented by Barry Medenbach.

MR. MEDENBACH: Good evening. Do you want me to give an update?

CHAIRMAN EWASUTYN: From where we left off last.

MR. MEDENBACH: The last time we were here there were a couple of requests. One of them was the entrance road which goes out to Lakeside. Actually, the first part of it through the hotel side is 26 feet wide. We were going to reduce it to 20. We got back in here and we were going to go back to 26 for the fire access, the request to widen that, and also provide a 6-foot paved area all the way out to Lakeside for pedestrian access which we included in the plans.

We also increased the water main extension from 6 to 8 inches to allow for the higher fire flow that may be required for the building sprinkler fire prevention system. We added another fire hydrant.

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We modified the landscaping a little bit. There was a question about not having any Conifers. We have some Conifer trees.

Also during that time period we obtained our flow confirmation from the City of Newburgh.

We made the application to the DEC for the wetlands. We're not actually in the wetlands but we're touching the 100-foot adjacent area to make the emergency access into the parking lot for the Ice Time complex. So that application has been made.

CHAIRMAN EWASUTYN: Thank you.

Jerry Canfield, comments at this point?

MR. CANFIELD: As Mr. Medenbach indicated, the access roads are acceptable, the 26 feet.

The main size increasing to 8 inches is acceptable.

The hydrant locations that he has proposed, they submitted to my office which is also acceptable.

I believe Mike is going to talk about the assurances mentioned in 185-48.

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MR. HINES: Of the Zoning Code.

MR. DONNELLY: Before the senior housing project can be approved there has to be an approval granted by the Town Board even though a density increase is not being sought. The assurance required under Section 185-48(D) 1 through 5 requires a demonstration of the need for affordable housing and certain assurances that are specified in those sections. The Town Board will have to grant that approval before you can act.

You're talking about issuing a negative declaration. The Town Board will need to see that before they can give their approval.

I think you decided during the work session that you would hold a public hearing on this matter but you would schedule it after the Town Board took action.

MR. MEDENBACH: Okay.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: Nothing.

MR. DOMINICK: No.

MR. WARD: I was going to mention what

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he said.

CHAIRMAN EWASUTYN: You can mention it.

MR. WARD: Where you have your entrance coming in with the property line, with the other projects around the Town what we've had is like a decorative, whether it's stone or whatever, as an entrance with a sign going up, or whatever, for an entrance going into your property.

MR. MEDENBACH: In here?

MR. WARD: Wherever your --

MR. MEDENBACH: We don't own anything here.

MR. WARD: I'm saying where your property line is.

MR. MEDENBACH: We can do that. We can put a sign.

MR. WARD: Not even a sign. A little stone on each side.

MR. HINES: An entrance feature.

MR. MEDENBACH: We can do that. We can add that to our landscaping plan.

MR. WARD: This way it's presentable.

CHAIRMAN EWASUTYN: Any additional comments?

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(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to declare a negative declaration for the Lakeside Senior Housing project on Lakeside Road before us this evening.

MR. DOMINICK: I'll make the motion.

MR. WARD: Second.

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

(No response.)

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

So at this point Mike Donnelly is suggesting you address the Town Board as far as getting on the agenda.

MR. DONNELLY: I'll send a referral letter as well.

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MR. MEDENBACH: The public hearing?  
Schedule a public hearing for next month?

MR. DONNELLY: I'll send a referral letter. You'll have to be put on the Town Board agenda. This Board will hold it's public hearing after the Town Board takes action.

MR. MEDENBACH: Okay.

MR. HINES: Also, we discussed at work session the need for architectural prior to the public hearing.

CHAIRMAN EWASUTYN: Thank you. That's important. We'll need that for the public hearing.

MR. MEDENBACH: With the original application we had some architectural which I can resubmit.

MR. DONNELLY: I think the Board just wants to make sure you have them for the public hearing.

MR. MEDENBACH: There's kind of a rendering of the building, what we're looking at.

CHAIRMAN EWASUTYN: I think we want to see all four sides of the building. Something of a more detailed nature.

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MR. MEDENBACH: We can do that. I have some. I have this one. These are our preliminaries that we put together. We basically designed the site around this with the individual units. We can advance these drawings a little bit more. How much more detail do you want other than colors? The dimensions are pretty much there. I'll submit those as a formal submission before the public hearing.

MR. HINES: They're going to look for not only colors, materials, type of windows, type of window treatments, the vinyl siding. That kind of detail.

MR. MEDENBACH: Okay. Very good.

MR. HINES: As a guide, the Town has an architectural form that if you filled that out it would give you the details that they're looking for.

MR. MEDENBACH: Okay.

MR. HINES: I think it's in the application packet.

MR. MEDENBACH: I think I remember reviewing that.

MR. HINES: We had a couple of



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technical comments that Mr. Medenbach has that he can address.

MR. MEDENBACH: Minor stuff. I don't think we need to discuss it.

MR. HINES: No.

MR. MEDENBACH: We'll take care of all those items.

CHAIRMAN EWASUTYN: Thank you.

MR. MEDENBACH: Anything else? Thank you.

MR. HINES: Barry, also on the water main extension, the Health Department approval will be required.

MR. MEDENBACH: I know that.

MR. HINES: I didn't have it on the comments.

MR. MEDENBACH: It was on your earlier comments. We'll take note of that. I think we're almost ready to submit that.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this ^ day day of ^ Month 2017.

*Michelle Conero*

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MICHELLE CONERO

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

----- X  
In the Matter of

RAM HOTELS, INC.  
(2016-21)

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

----- X

PUBLIC HEARING

Date: April 20, 2017  
Time: 7:39 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

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RAM HOTELS, INC.

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CHAIRMAN EWASUTYN: The sixth item on the agenda this evening is the RAM Hotel. It's located on Unity Place in an IB Zone. It's here this evening for a public hearing. It's being represented by Larry Marshall.

At this point I'll turn the meeting over to Ken Mennerich.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law, Chapter 83 of the Town of Newburgh Code, on the application of RAM Hotels, Incorporated, project 2016-21, for a two-lot subdivision and site plan. The project proposes to subdivide and existing 8.47 acre parcel into two lots. Lot 1 will be 6.42 acres, lot 2 is 2.05 acres. The project proposes a site plan on lot 1 consisting of a five-story, 112 room hotel. The hotel will have a footprint of 18,388 square feet. 160 plus or minus parking spots are proposed. The site will be served by municipal water and sewer service located within Unity

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Place. A stormwater pollution prevention plan has been prepared. Two points of access from Unity Place are proposed, one of which will share access with the other lot in the subdivision, lot 2. The project is located in the IB Zone. The premises are located on Unity Place on Town of Newburgh tax maps as Section 97, Block 2, Lot 37. Said hearing will be held on the 20th day of April 2017 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated 28 March 2017."

CHAIRMAN EWASUTYN: Thank you, Mr. Mennerich.

At this point I'll turn the meeting over to Mike Donnelly to explain the purpose of a public hearing.

MR. DONNELLY: There are two public hearings this evening. The Board wishes to hear from the public before it takes any action on these two proposals. The applicant will first

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make a presentation. After that the Chairman will ask those that wish to speak to please raise your hand. We'd ask you, when you're called upon, to come forward so that we can hear you. State your name, spell it if you would for our Stenographer so we get it down correctly. It would be helpful to the Board if you'd say where you live in relationship to the project so we understand the perspective you bring to bear. If you have simple questions that can be answered, the Chairman will ask either a member of the Town's consultant team or the applicant's representative to answer those questions. We ask you to address your comments and questions to the Board, not to the applicant.

CHAIRMAN EWASUTYN: Thank you.

Mr. Marshall.

MR. MARSHALL: Good evening. My name is Larry Marshall from Mercurio-Norton-Tarolli-Marshall. We're the applicant's engineer and land surveyor of record.

As stated in the public notice, this is a two-part application, the first part being a two-lot subdivision of an existing approximately

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8.5 acre parcel located on the westerly side of  
Unity Place.

To give the public a general awareness  
of where this is, it's located south of the  
existing Morehead Honda and southwest of the  
Barton Birks Chevy Cadillac dealership. It's  
located between Morehead Honda and up above would  
be the Jehovah's Witness hall.

As stated, this is a two-lot  
subdivision subdividing approximately 6.4 acres  
off of the parent approximately 8.5 acre parcel,  
and then the 6.4 acre parcel is proposed for a  
hotel site.

The hotel is a five-story hotel  
containing 112 guest rooms. The hotel, being  
located on Unity Place, did require two variances  
to which the Zoning Board of Appeals granted  
them. That was for overall height exceeding the  
maximum height by 19 foot 4 inches and also a lot  
-- a hotel being located on a Town road as  
opposed to a County or a State highway.

The site plan proposed does contain two  
accesses off of Unity Place. The northerly  
entrance, which would be the first entrance if

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you were entering off of 17K onto Unity Place, is the primary entrance to the site. The applicant wished to have a secondary entrance or exit out onto Unity Place in the event of an emergency or just to better facilitate movement through. That second entrance is proposed to be a joint entrance with remaining lot 2. So if lot 2 develops at a future date, they would utilize the secondary entrance to the site.

To service the site there are a total of 116 parking spaces which is in compliance with zoning.

We do propose to connect to the Town water and sewer.

A stormwater pollution prevention plan has been prepared in conformance with current New York State DEC regulations.

As part of the grading that's associated with the construction of the hotel, there's a small amount of wetland disturbance. That wetland disturbance is the U.S. Army Corp of Engineers. The total disturbance is approximately 2,500 square feet. It falls within their regulations of the pre-construction



1 notification qualifications to which the  
2 applicant is currently pursuing with the Army  
3 Corp. We have not received their approval or  
4 their lack of response yet, but we do anticipate  
5 that in the near future.  
6

7 We have prepared full plan sets  
8 including a lighting and landscaping plan for the  
9 Board's review. The landscaping has changed  
10 substantially since the last submission. We met  
11 with Karen Arent and developed a landscaping plan  
12 in conformance with what she felt would be best  
13 suited on this site. As I said, extensive  
14 landscaping around the building along with  
15 internal to the islands and around the perimeter.  
16 I can go into that in more detail if you'd like.

17 We also have a lighting plan that's  
18 associated with the -- a lighting plan that's  
19 been developed for the property. It is all LED  
20 fixtures, full cutoff, above-rated lighting on  
21 the site. This is some upward lighting to light  
22 the side of the hotel building at night. Again,  
23 all non-glare, downward facing fixtures.

24 We have provided the Board with the  
25 prototypical elevation of the building.

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RAM HOTELS, INC.

Primarily the building will feature three different colors of stucco along with a cultured stone and a firewood finish. We do have samples of what's being proposed. Obviously we did not submit them prior. If the Board would like to see them, we do have them with us this evening.

CHAIRMAN EWASUTYN: At this point I'd like to turn the meeting over to the public. As Mr. Donnelly had said, if you would raise your hand and give your name and your address. If you happen to have a business card that you could offer to Michelle Conero, the Stenographer, that would be helpful.

The gentleman in the back.

MR. BAZYDLO: Good evening, Board Members. My name is Charlie Bazydlo, I'm outside Counsel, Counsel for three neighboring property owners of the project. The three clients I'm representing here tonight are Route 17K Real Estate, LLC. They own an office building on 17K in the vicinity of the project. There's also two local landowners on Lakeview Drive, Janet Berry and Charles and Nancy Joanides, that are in close proximity to the project. They are on the

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notification list for the 500 feet surrounding notification.

Basically what we've done, we have taken the plans and the submission that's been made to the Board and we have engaged an engineering company and a wetlands specialist to take a look at the application and come up with some comments and observations on it. I do have those reports here with me tonight. I have a copy for each of the Board Members, and I'd like to give a brief summary of that if I can.

CHAIRMAN EWASUTYN: Charlie, can I ask you a question?

MR. BAZYDLO: Sure.

CHAIRMAN EWASUTYN: You've been working on this for how long? You know what always amazes me, how a gentleman of your quality will come forward at 8:00 in the evening and say here it is, whereas you would think, being a professional, you would have the due courtesy of at least giving it to us twenty-four hours, forty-eight hours in advance so we can have an opportunity to review it. But that being said --

MR. BAZYDLO: Understood.

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CHAIRMAN EWASUTYN: It's the one thing that has always fascinated me about public hearings.

MR. BAZYDLO: Understood. Well in this situation, just to explain the process we had to go through, I was at last month's meeting. I did hear the date for the public hearing. We had to file a FOIL application to get the material.

CHAIRMAN EWASUTYN: And the turnaround on that?

MR. BAZYDLO: It was excellent. Excellent on that. Got the material, had to get it copied, had to find the consultants to review the information. I'm a lawyer. I love the fact of it, you have to get contracts with them, engage them, pay their fees. It all takes time to do it. We just got these reports I think on the 18th or 19th. Just a day or two ago. I had to have a chance to take a look through them and summarize them. I do understand your concern, however sometimes it seems like it's a long notification period from when you set the public hearing to when it actually happens but it's not that long when you get involved in the details.

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CHAIRMAN EWASUTYN: Thank you for your time.

MR. BAZYDLO: Okay. I'll give you the original. It kind of looks like a test.

Basically I'll just go over -- I provided on top a summary letter, a three-page summary letter, of the points raised. Between the engineering consultant and the wetlands consultant there's, I hate to say it, sixteen pages of comments. Some of them are figures. It's probably about twelve pages of comments.

MR. HINES: Charlie, can he get one?

MR. BAZYDLO: You can.

Basically it comes down to a few key issues. I will say that each one of the comments raised by the consultants is something I believe the applicant needs to address.

To summarize my summation, if you will, one of the big issues about I think this project site, as the Board may already realize, is the wetlands that's located on this project site. As Mr. Marshall had commented or said during his presentation, there is going to be a filling of this wetland. Now, the applicant, in my opinion,

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seems to present this as a minor action. We have a disagreement with that. Basically the wetlands consultant that we had look at the project believes that this site is hydraulically connected to other wetland areas -- other wetlands within the immediate area. The fact that this wetland is not isolated, we believe, creates a complication, not only for potentially getting an Army Corp permit but might bump it up to the possibility of DEC jurisdiction.

Basically when you look at the history of the site -- there are aerial photographs and history of the site that shows the wetlands on the site may have actually been bigger at one time. Soil surveys show this site being primarily poorly drained soils, wet soils. It isn't now. Somewhere along the way there's been filling on the site or grading on the site. We don't know when that may have occurred. We don't know what approvals may have been given for that. I believe that's something the Board needs to consider, that what the applicant says is now, I think they said a half acre wetland, maybe a little bit bigger, could actually be much bigger

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2 than that. That's something that should come out  
3 of the Army Corp's review of the project.

4 Mr. Marshall did correctly state that  
5 it's going to require a pre-construction  
6 notification. That pre-construction notification  
7 is going to require a detailed delineation of the  
8 wetland. That delineation of the wetland has to  
9 be reviewed by the Army Corp. I believe some of  
10 these issues may be brought up when the Army Corp  
11 is in the process of issuing their jurisdictional  
12 determination.

13 Now beyond that, the fact that this  
14 wetland is associated with an active stream that  
15 runs through it and connects to other areas  
16 possibly brings in DEC jurisdiction. If the DEC  
17 was to look at this site and say well it's not  
18 just a small wetland on the site but perhaps it's  
19 connected to other ones in the area, made me feel  
20 that it does qualify as either a strict 12.5 acre  
21 jurisdictional wetland, or they could say that  
22 because of the fact that there may be endangered  
23 or threatened species or habitats on this site,  
24 coupled with the fact of their new heightened  
25 concern about water quality of Lake Washington

1 and the potable water source of Lake Washington.  
2 DEC already has the legal ability to take control  
3 over this wetland even if it isn't 12.5 acres.  
4 If they were to take jurisdictional control over  
5 the wetland, that requires -- as the Board knows,  
6 there's a 100-foot buffer around that DEC  
7 regulated wetland as opposed to no buffer around  
8 the Army Corp. You'll not only have a  
9 disturbance of the wetland itself but also a  
10 disturbance of the buffer area. So the wetlands  
11 I think is the significant issue. I'm not saying  
12 it couldn't work out, but it needs to be flushed  
13 out further, and should be flushed out before  
14 this Board takes further action on the  
15 application.  
16

17 The second major area, endangered and  
18 threatened species. I think the applicant has  
19 acknowledged the fact that the site is a  
20 potential habitat for Long Eared Bats, as is most  
21 of Orange County at this point in time. I have  
22 noticed they have cut down trees on the property  
23 in conformance with an issued grading plan during  
24 the proper period of time when that action could  
25 occur. However, in looking over the EAF and in



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looking over the file that the applicant has produced, there does not seem to be any coordination to try to identify whether there's any other habitat on the site that could support endangered or threatened species. I think the DEC mapper says in itself that it's unknown at this point in time. Typically there would be some further coordination, some further letter correspondence with DEC to see if there's been any indication of species on the site or in the general area. So I think that's something that also needs to be looked at a little bit further.

The stormwater pollution prevention plan. The applicant has put that together. I did not go into any details in my summary but in the report from Provident Design Engineering there's several pages of comments they have about the adequacy of that stormwater pollution prevention plan. I think it's something the Board would be -- it would be a good idea if the Board was to direct the applicant to take a look at those comments and come up with a response for it.

Traffic and parking. I did not see in

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the review of the file any detailed traffic impact study done for the project. There was an additional auto dealership proposed at one time across the street from this project. That project did require improvements to the Route 17K/Unity Place intersection, however none is proposed here. I don't know whether that project is still active. Even if it isn't, if the amount of traffic generated for that dealership is somewhat equal to what is going to happen at this hotel, it seems a more detailed look needs to be examined as to whether there needs to be any additional improvements to the intersection.

A key point both from a study point of view and also from a SEQRA point of view is that this project does entail a subdivision. It's going to create a separate lot. The argument can be made that this Board should be looking at the combined impacts of both of those lots. Though the applicant has not proposed anything specific for the second lot, they are proposing a shared driveway with that second lot. This kind of tailors into the traffic analysis that at least -- normally what many boards would do is to say

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well give me an example of something that could go on that lot that's in compliance with the code and we can then take a look at the traffic generated from that as well as stormwater generation and see whether combined together this project trips any kind of criteria for a more detailed study.

And then finally, just by way of summary, in looking at the application, the applicant is proposing a 112 room hotel. They have spec'd out 116 parking spaces. That does comply with the Town's Code requirements for parking for the hotel use itself, however this hotel is also proposing a 96 seat conference center and a 20 seat ballroom, a 50 seat restaurant and I believe a 12 seat bar area. I believe your code calls for those areas also to have a separate parking allocation. I believe it's one space for every four seats of occupancy. So if my math is correct -- I'm a lawyer, not an engineer so my math may not be correct -- I think that comes out to another 45 parking spaces that are not on this site. The site is already tight from a design point of view. I don't know

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2 whether they can get another 45 parking spaces on  
3 this site. Certainly without maybe perhaps  
4 impacting the wetland more or perhaps impacting  
5 the dividing line, or proposed dividing line  
6 between the two lots. I think that's a key issue  
7 that needs to be looked at by the applicant and  
8 the Board.

9 So that's by way of a quick summary. I  
10 understand the Chairman's concern about the short  
11 timeframe in providing this information, however,  
12 as I explained, it does take some time to get it  
13 together.

14 I would request that the Board keep the  
15 public hearing open and ask the applicant to go  
16 over these comments and then supply a response to  
17 the Board, and we'd like to have a chance to  
18 review that response once it's produced also.

19 CHAIRMAN EWASUTYN: Thank you.

20 MR. BAZYDLO: Thank you.

21 CHAIRMAN EWASUTYN: The gentleman in  
22 the front who raised his hand.

23 MR. FEDER: Bill Feder, Rockwood Drive.  
24 My initial question was is this intended to be a  
25 commercial property open to the public as a

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hotel? I guess is it a commercial hotel? Will it be a commercial hotel?

MR. MARSHALL: Yes. It is proposed to be a Hilton Garden Inn.

MR. FEDER: The second comment is based on the previous comment. I think the flow of water needs to be investigated a little bit further. I don't think it will impact City of Newburgh's drinking water as the stream likely flows in the opposite direction to the Quassaick Creek, to the north of that property. Thank you.

CHAIRMAN EWASUTYN: Do you want to respond to the drainage flow?

MR. MARSHALL: Regarding -- well, two parts. One, this site is not tributary to Lake Washington, so that concern that was raised by Mr. Bazydlo -- the gentleman, I'm sorry, I didn't catch your name.

MR. FEDER: Bill Feder.

MR. MARSHALL: I'm sorry, Mr. Feder. Mr. Feder is absolutely correct. This flows to the north. Lake Washington is to the south.

Regarding specifically the flow from the proposed development, in accordance with New

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York State DEC regulations, the general permit, we are not allowed to increase the flow rate off of the site. We have provided demonstration of that within our stormwater pollution prevention plan.

CHAIRMAN EWASUTYN: Would you like to comment on any issues that Charlie had just raised?

I hope you don't mind me calling you Charlie.

MR. BAZYDLO: That's fine.

CHAIRMAN EWASUTYN: That's why we were saving you a seat.

MR. MARSHALL: A couple of the items. Regarding specifically the endangered species, we wrote a request to the National Heritage Program to which we received a response identifying only the Indiana Bat and Northern Long Eared Bat as potential species on this site. As the Board is well aware, you don't impact those species unless you remove trees between April 1st and October 1st. Those trees have been removed. That's just a time of year issue, which this project, if it were to begin construction before October 1st,

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then it would not have any impact on those species.

There were some concerns over the potential connection to New York State DEC wetlands. New York State DEC does not consider a wetland to be hydraulically connected if it is segmented by an installed culvert pipe that exceeds 150 feet in length. The culvert pipe that drains under Unity Place to the north side of 17K well exceeds that, so that point is moot. This wetland itself would have to be connected hydraulically to the west to a larger wetland. Really this wetland is isolated to the areas between the Adams Fairacre Farms, the Kohl's shopping center and the Home Depot that's on the site.

Regarding the traffic study, we had, as we had indicated in our -- as Mr. Barton had indicated in our initial presentation, the auto dealership that was proposed out on 17K that that traffic study was completed for has been abandoned and he's no longer pursuing that. As you are well aware, he recently renovated his existing showroom, and that was in lieu of the

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new dealership.

I won't speak to your consultant's review of the traffic generation but we did provide some preliminary calculations, as did your consultant, and they were relatively low for the size of the development.

Regarding the parking, as indicated previously, the bar and the restaurant located within the hotel will be for the hotel guests only. It's not for outside users. This is not, you know, a hotel where you would come in as an outside -- as somebody driving down the street looking for a bite to eat. It is for guests, which was indicated at a previous meeting.

CHAIRMAN EWASUTYN: I'll turn to our consultants for open conversation.

Ken Wersted, Traffic Consultant?

MR. WERSTED: As Mr. Marshall pointed out, there was a previous project proposed off of 17K, the Barton car dealership. I believe that had a number of different uses in total that was assumed in the traffic study and has since gone away. As our preliminary look at this project and in comparison with the previous study that



1  
2 was out there at Unity Place, we had identified  
3 the previous project that proposed an eastbound  
4 right-turn lane onto Unity Place, but with that  
5 project going away and this one coming in, there  
6 was pretty much a net decrease in the traffic  
7 that was going to be out there. We didn't find  
8 any significant concern with that.

9 We did identify some striping changes  
10 that we had requested to be proposed on Unity  
11 Place. I did talk to the Town Engineer about  
12 that. I will summarize that conversation and  
13 forward that to your office.

14 To the extent we had suggested  
15 providing opportunities for a cross access to the  
16 lot that is remaining to the south on Unity  
17 Place, particularly because that lot has more  
18 probably limited sight distance as you go further  
19 south around the curve, we thought a shared  
20 driveway would serve both of those projects more  
21 concisely.

22 That was pretty much the extent of our  
23 major comments.

24 CHAIRMAN EWASUTYN: I think it would be  
25 unfair at this point to discuss the drainage

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study that Mr. Bazydlo worked on because you haven't had an opportunity to look at it.

MR. HINES: We'll look at the information submitted, as we do with all public hearing comments, and work with the applicant's representative on any of those that we find are substantive and may or may not need to be addressed.

We have reviewed the project and the various details associated with it on numerous occasions and provided comments to the applicant's representative. The applicant's representative has responded to each of those.

The only outstanding items we have right now are a final coordination with the Code Compliance Office regarding the location of the fire hydrants for the fire protection system, a City of Newburgh flow acceptance letter is outstanding for the site.

The Board is limited in what actions it can take this evening. Per the agreement with the City of Newburgh, no final action can be taken until that City of Newburgh flow acceptance letter is in the Planning Board's hands.

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There is a requirement for the Health Department to approve the water main extensions for water mains which contain hydrants. That will be a condition to be provided.

We do concur that this stream does flow in a northerly direction and is not tributary to Washington Lake, the City of Newburgh's water supply. This goes to the Quassaick Creek and down gradient from there.

Otherwise our previous comments have been addressed.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Our previous comments at the last meeting have also been addressed with respect to detail.

I do have a proposed location for the hydrants that I can get with Mr. Marshall on.

One question I have for Mr. Marshall is one of the questions of detail that we have was the domestic supply is still listed as a two-inch K copper. Is that correct or --

MR. MARSHALL: That's our preliminary. We need to correspond with the architect on that

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to determine an exact size.

MR. CANFIELD: See what the demand is.

Okay.

That's all I have.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: The previous project with the car dealership with the traffic study, correct me if I'm wrong, I think there was supposed to be an entrance going out to 17K by Shortline. That was washed off the table. That's why it triggered a traffic study.

MR. WERSTED: Correct. There was an access in between different parts of that site that accessed 17K directly. I'll have to go back to those notes. I can't remember if there was a left turn allowed out there or just a left turn in and a right turn out. I'd have to pull my notes from that project.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: Larry, you did say you're in contact with FAA waiting for the approval?

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MR. MARSHALL: We received their comments back. We provided a letter to the Board. They said that no further action was necessary.

MR. DOMINICK: No lighting on top?

MR. MARSHALL: No lighting, nothing. Despite the height, the site is very low. We're actually significantly lower in elevation to the back of the building than many of the other buildings, including Restaurant Depot, the Finkelstein/Time Warner Cable building and several other of the sites that are along 17K. I can provide an additional copy to the Board, that's not a problem. We submitted that as part of the ZBA application. That was raised during that time. FAA came back with no comments.

MR. DOMINICK: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Larry, has the Army Corp indicated when they're going to review your site?

MR. MARSHALL: They have not. Not yet. With the pre-construction notification, upon submission the Army Corp of Engineers is under a

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deadline of 45 days to review and comment. Not indicating that that would be the case here, but under small disturbances similar to this Army Corp will often just not respond and issue the approval as a -- or issue the pre-construction notification in that manner.

MR. HINES: It's a default approval after 45 days.

MR. MARSHALL: We can't force them to respond but they have 45 days to do so.

MR. MENNERICH: Thanks.

CHAIRMAN EWASUTYN: Stephanie DeLuca?

MS. DeLUCA: No. No comment.

MR. GALLI: How many days has it been Larry, do you know?

MR. MARSHALL: I would have to check with the environmental consultant to see when it was submitted. I can provide the Board with the submission documentation for your records.

MR. GALLI: We've been reviewing this project quite a few months now. Pat Hines, our consultant, I think has done a good job on bringing out all the details that we need. Getting the last minute report, I just think it's

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a ploy to hold the project up.

CHAIRMAN EWASUTYN: Additional comments from the public?

MR. BAZYDLO: One other comment. Mr. Marshall did make the comment here now that the bar and the restaurant areas are intended for hotel use only. How they can control that I'm not sure. Beyond that, there's still a 96 seat ballroom, and I forget the number on the meeting room. Those certainly would be or could be used by non-occupants of the hotel. So I still think there's an issue there about adequate parking.

CHAIRMAN EWASUTYN: Mike Donnelly?

MR. DONNELLY: Two matters. One is because we don't have a flow acceptance letter you can't take action tonight.

It may be, Larry, worth your while, given Mr. Bazydlo has raised the possibility of impacts from the other lot being a cumulative impact, I think the one that would be most easily addressed is traffic. I would recommend that you make some attempt to specify a use that's allowed in that zoning district and provide the Board with projections of what a traffic flow from that

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use would be, and also to provide them to Ken Wersted. We can superimpose those on the other traffic studies we have in the area to see if there's any potential difficulty there. I think it's an easy enough exercise, can be done quickly, and we can't take action tonight anyway.

The other issue is do you wish to leave the public hearing open. If more information is going to be provided by the applicant or your consultants, do you want to, since you can't take action now anyway, announce a continuation date and allow further comments from the public after those materials are provided? You wouldn't have to re-notice it in the newspaper. You would announce a time and a date for the continuation of the hearing if you thought it was appropriate.

CHAIRMAN EWASUTYN: I'll poll the Board Members. Frank Galli?

MR. GALLI: No. It's been at the Zoning Board already, it's been here. We had one person speak at both.

CHAIRMAN EWASUTYN: Stephanie DeLuca?

MS. DeLUCA: I'd like to keep it open.

CHAIRMAN EWASUTYN: Ken Mennerich?



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MR. MENNERICH: No.

MR. DOMINICK: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Myself no.

Let the record show that the majority of the Planning Board Members decided not to keep the public hearing open.

The Planning Board will seek the advice of Counsel, Mike Donnelly, to have an additional traffic study done based upon the potential use of the adjoining property based upon the bulk requirements of the use for that zone.

MR. MARSHALL: We'll prepare that.

MR. BAZYDLO: If I could just comment, Mr. Chairman, quickly. If the Board is going to ask the applicant to produce additional information, I think you're obligated to allow the public to be able to comment on that.

MR. DONNELLY: My own view is it's always a give and take after the public has brought issues and matters to the attention of the Planning Board for the Planning Board to seek further input from the applicant. It's not a requirement that the public be given an

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opportunity at every iteration of the plans to  
comment further.

MR. BAZYDLO: If you're not going to  
keep the public hearing open, I'll probably  
supply a letter. I would hope -- I'm sure you  
will read the letter.

MR. DOMINICK: In ample time or the  
night before?

MR. BAZYDLO: We'll have to see how  
soon the information comes.

MR. DOMINICK: Hopefully in time.

CHAIRMAN EWASUTYN: I respect you. I  
was just saying that because if there's one thing  
that I always found interesting about public  
hearings was how we're a really active Board.  
Generally speaking, the Friday before that  
Thursday night meeting, the way we have our  
meeting is we like to receive comments so we have  
the opportunity to review them, so we can listen  
to you, you can listen to us and it will be an  
intelligent conversation. You're very good at  
what you do and I admire you for your work. I  
do, Charlie.

MR. BAZYDLO: Okay. Thanks.

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CHAIRMAN EWASUTYN: From what I understand, you are also an engineer.

MR. BAZYDLO: Yes.

CHAIRMAN EWASUTYN: Thank you.

MR. BAZYDLO: Don't hold that against me.

MR. DONNELLY: You denied it earlier.

MR. BAZYDLO: I said I couldn't do math.

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing on the RAM Hotel located on Unity Place, being presented this evening by Larry Marshall.

MR. GALLI: So moved.

MR. DOMINICK: Second.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Aye. Thank you.

MR. MARSHALL: Would it be possible for you to send me a copy of Charlie's comments?

MR. HINES: Yes.

(Time noted: 8:18 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May 2017.

*Michelle Conero*

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

----- X  
In the Matter of

U.S. CRANE & RIGGING  
(2016-14)

18 Route 17K  
Section 97; Block 1; Lot 21.2  
IB Zone

----- X

PUBLIC HEARING

Date: April 20, 2017  
Time: 8:19 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ANDREW FETHERSTON  
LARRY WOLINSKY

----- X

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

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CHAIRMAN EWASUTYN: The seventh and last item of business this evening is U.S. Crane & Rigging. It's located on Route 17K in an IB Zone. It's here for a public hearing. It's being represented by Andrew Fetherston of Maser Engineering.

At this point I'll turn the meeting over to Ken Mennerich.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law and Chapter 83 of the Town of Newburgh Code on the application of U.S. Crane & Rigging, LLC, project 2016-14, for an amended site plan. The applicant proposes to amend an existing site plan to incorporate a large equipment/crane storage and repair facility. The applicant proposes to construct a new 66,125 square foot building for altering and fabricating steel. An existing vehicle wash facility on the site will be utilized as well as an existing garage for parking of cranes, rigging and elevators. The

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project will utilize existing paved surface to park construction vehicles, cranes and trailers associated with the applicant's use. Access to the site will be via the existing site access off of Route -- New York State Route 17K with an emergency access only provided from Stewart Avenue. The project is located on an existing 97.9 acre parcel of property located in the IB Zone with a proposed LHI Overlay. The premises is located at 18 Route 17K in the Town of Newburgh, designated on Town tax maps as Section 97, Block 1, Lot 21.2. Said hearing will be held on the 20th day of April 2017 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated 28 March 2017."

CHAIRMAN EWASUTYN: Do you have a card for the Stenographer?

MR. WOLINSKY: I'll bet the Stenographer knows me.

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For the record, Larry Wolinsky. I'm from the law firm of Jacobowitz & Gubitza representing U.S. Crane.

Very quickly, I just want to advise the Board, which the Board I'm sure is aware of but the public might not be, we sent a letter withdrawing the component of this application that implicated the LHI zoning overlay. The uses that were proposed for this project that triggered the need for that are no longer being proposed. I thought that it was important to clarify that right at the outset this evening.

I also just want to introduce folks who may be participating tonight. Tim McColgan who is counsel for U.S. Crane; Andrew you know, Andrew Fetherston, an engineer; Art Seckler, the architect.

Without further ado, I'm going to turn it over to Andrew who will be doing a brief presentation.

MR. DONNELLY: Larry, could you just be more specific as to what aspects are withdrawn and which remain for the benefit of the public?

MR. WOLINSKY: Yes. We're withdrawing



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anything to do with repair or maintenance of cranes on the project site.

MR. DONNELLY: And what remains is?

MR. WOLINSKY: What remains essentially is the fabrication of steel in the proposed new building.

MR. GALLI: Mike, what about storage of cranes? Is that still proposed?

MR. DONNELLY: I don't think there are going to be any cranes on site at this point.

MR. WOLINSKY: Storage of cranes is not proposed at this time.

MR. FETHERSTON: Good evening, Mr. Chairman. The public notice was very thorough, it read most of my notes.

Just briefly, a 97 acre parcel. Approximately 25 acres of that parcel is the pavement, the paved area for what is right now the Auto Auction property. Frontage on Route 17K, Stewart Avenue and also on Tarr Road on the west side. The main entrance from Route 17K is going to be utilized, and also the emergency access, as was stated, from Stewart Avenue.

The site has previously been developed

1  
2 with a large commercial garage structure that the  
3 Auto Auction used to use. A car wash is also on  
4 the site. There are some guard booths scattered  
5 about the site. The large expanses of pavement  
6 for the vehicle storage.

7 The site is in the IB Zoning District.  
8 That's Interchange Business. We're taking away  
9 the LHI overlay that we were seeking previously.  
10 We're proposing an as-of-right use subject to the  
11 site plan review by the Planning Board.

12 The zoning table, it's under number 8,  
13 manufacturing, altering, fabricating, processing  
14 products or materials involving the use of only  
15 oil, gas or electricity for fuel. The accessory  
16 uses include number 4 in that same table.

17 Off-street parking is required for the  
18 principal use which is the fabrication building,  
19 parking for the employees.

20 Truck loading facilities. The loading  
21 and unloading of steel will primarily be done  
22 inside of the building. The building, as will be  
23 demonstrated by the architect, is that there's  
24 cranes that will travel from the long end of the  
25 building, from one end to the other, pick up the

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steel and place it on the trucks and moving it around for their operations.

Car washes are also permitted. It's already there.

The storage areas for motor vehicle dealerships for storage of vehicles without relationship to normal parking standards. That's that accessory for the Auto Auction that's been going on for many years.

The proposal is a 62,100 square foot building for altering and fabricating structural steel. There's an associated 4,000 square foot office on the southwest corner of that building. We're proposing to re-utilize that car wash building. Currently when we're withdrawing the cranes, we're withdrawing the maintenance of the cranes for this site. We're not proposing any use whatsoever for that garage building now. That will remain vacant.

The hours of operation are 7 to 5.

We are connecting up to the water, sewer and drainage that are already on or adjacent to the site. We had Sullivan Fire Prevention out the other day and they ran hydrant

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tests. There's more than adequate water for the use of the site, which is primarily flushing toilets and sinks. There's no big water use going on on the site.

We also received a negative declaration from the Planning Board previously for this use.

I'd like to turn it over to the architect.

Public notices, 124 went out and 4 were returned.

MR. SECKLER: Mr. Chairman, Members of the Board, good evening. Arthur Seckler, partner with Lothrop Associates, architects.

As Andrew described to the Board, the proposed building is a pre-engineered building measuring roughly 345 feet in length and 184 in width. It's a total structure of 62,100 square feet with an appendage on the southwest corner of the building which would accommodate the office functions of the fabrication shop.

There will be three overhead doors on the easterly elevation of the building and then two overhead doors on the north elevation of the building.

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There will be three primary bays in the building. As Mr. Fetherston explained, there will be an overhead crane system that transports the steel, the raw steel as well as the fabricated steel, within the building. They will traverse through these bays from one end of the building to the other. Steel will come in, be loaded onto trucks and then leave through the doors on the north elevation of the building.

The elevational difference between the floor of this building and the office is approximately eleven feet. With the grading, at this corner we're at grade. The grade comes up along the south edge of the building. This back corner of the building is about eleven feet below grade at that corner, and then along the north elevation it's above grade.

It is a pre-engineered building, as I explained. It will be metal panels that will run horizontally. They are varying colors. I do have a rendering that I'd like show you. There's a random pattern of windows or translucent panels that will sprinkle the elevation.

The office portion will be a glass

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curtain wall with some accent stone.

The overhead doors, again as I explained, would be along that east elevation of the building. On the north side, the two overhead doors I explained.

The siding. Horizontal siding would continue all the way around the building, and then this would be the west elevation of the building.

As I explained, there would be three main bays and the overhead cranes would traverse the building.

If the Board has any questions, I'd be happy to answer them.

CHAIRMAN EWASUTYN: Do you have a color rendering to put up?

MR. SECKLER: I'm sorry. Yes. So it's a series of varying shades of blue and white colors that would have a horizontal pattern to break up the facade. We don't want one large color so it looks like a large mass. We're trying to break up the facade.

CHAIRMAN EWASUTYN: Are you done with your presentation?

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MR. FETHERSTON: Yes.

CHAIRMAN EWASUTYN: As Mike Donnelly had said earlier in the meeting, for those of you who have any questions or comments, please give your name and your address. Raise your hand.

The lady in the back.

MS. MARTINI: My name is Carolyn Martini, C-A-R-O-L-Y-N, Martini like the drink, M-A-R-T-I-N-I. I am a business owner at 26 Route 17K. The building is adjacent to the proposed project.

I have a petition on behalf of some of the residents and business owners in the area who have signed some concerns about the project. I'd like to read it into the record to all the Board Members and to Members of the Planning Board, Chairman and to the public if I may.

"We are the residents, owners of homes and businesses located immediately adjacent to the proposed U.S. Crane project. The site plan approval of a crane fabrication building so close to our property lines would have a devastating affect on our lives, businesses and property values. At your March 16, 2017 Planning Board

1 meeting the project engineer stated that the  
2 properties located on Route 17K are not  
3 residences. This is untrue and a blatant  
4 misrepresentation. There are both residences and  
5 professional offices. There's a law office, a  
6 psychotherapist, a real estate broker and an  
7 insurance agent mere feet away from this 66,000  
8 plus square foot proposed crane fabrication  
9 building. The clanging and banging of steel and  
10 the noise and pollution from the oversized crane  
11 trucks in our backyards would destroy our homes  
12 and professional businesses. This noise and  
13 pollution would commence in the early morning  
14 hours and continue through the evening. At last  
15 month's Planning Board meeting several astute  
16 Planning Board Members inquired about the noise.  
17 For example, Board Member Browne asked has there  
18 been a study on your part as to how much sound  
19 attenuation is required to reduce the noise that  
20 would be produced. The applicant's consultant,  
21 Mr. Seckler, responded no, we have not done that  
22 analysis. In fact, it appears that a noise study  
23 regarding the sound levels to the surrounding  
24 properties was never conducted. At a minimum, a  
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1 noise study should be conducted. Without such a  
2 study the Planning Board can not knowingly and  
3 intelligently address the sound abatement  
4 measures which must be implemented to protect the  
5 surrounding residents, property owners and  
6 businesses. Failure to require such a study  
7 would not only be arbitrary and capricious but  
8 irrational. The applicant wants to introduce  
9 noisy industrial work commencing at early morning  
10 hours in the backyards of residences and  
11 professional offices. How would you like to be  
12 awakened to the sound of clanging steel beams and  
13 rumbling diesel crane trucks at 5 or 6 a.m. every  
14 morning? Imagine living next to a permanent  
15 construction site mere feet away from your home  
16 or business. The applicant has approximately 100  
17 acres of land and should not be allowed to place  
18 a 66,000 plus square foot crane fabrication  
19 building with multiple crane truck bays  
20 immediately adjacent to our properties. The  
21 crane fabrication building should be situated  
22 further away from our properties. The applicant  
23 may complain that much of it's property is low  
24 lying, however this is not an excuse to allow the  
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1 applicant to destroy the value of our properties  
2 by constructing it's main building and loading  
3 area on the edge of our properties. It is noted  
4 that there are large existing buildings located  
5 toward the center of the applicant's property.  
6 These buildings have been there for several years  
7 and have never created a disturbance for us. Now  
8 the applicant wants to place it's noisiest  
9 operation not in the center of it's property away  
10 from residents but immediately adjacent to our  
11 backyards. If permitted this would result in a  
12 de facto taking of our properties and businesses.  
13 To add insult to injury, the applicant has failed  
14 to even include noise barrier walls between their  
15 property and ours. No one would dispute that  
16 people should be able to sleep and live in  
17 relative peace. Further, a calm, quiet  
18 environment is required for professional  
19 businesses like the law office, a  
20 psychotherapist, a real estate broker and  
21 insurance agent. We have peacefully lived and  
22 worked here for decades. Allowing this crane  
23 project to go forward without significant changes  
24 in the proposed site plan would destroy us.  
25

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2 Please don't do to us what you wouldn't want done  
3 to you." Thank you. Respectfully by Jude T.  
4 Martini, owner of 26 Route 17K; Myself, Carolyn  
5 Martini, business owner of 26 Route 17K; Sue  
6 Acosta, business owner of 26 Route 17K; Wyatt  
7 Savage, business owner of 24 Route 17K; Annie  
8 Ryan, 15 Bellevue Road; Kenneth Ryan of 15  
9 Bellevue in Newburgh; Margaret DePuy, 10 Bellevue  
10 Road in Newburgh; Belinda Wild of 6 Boulder Road  
11 in Newburgh. Signed also by Michelle Cox of 6  
12 Putnam Street in Newburgh. Signed by William  
13 Lombardo of 28 Route 17K and by Mary Clifford,  
14 owner of 30 and 28 Route 17K who is also a  
15 business owner adjacent to the proposed project.

16 Thank you for your time.

17 CHAIRMAN EWASUTYN: Do you want to  
18 submit a copy of that for the record?

19 MS. MARTINI: Yes. I'll give you the  
20 original and I'll submit a copy to everybody.

21 Thank you.

22 CHAIRMAN EWASUTYN: Andrew, Larry,  
23 would you like to respond to that?

24 MR. WOLINSKY: I'll comment on the  
25 noise analysis. We actually have done a noise

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analysis. The noise analysis that we originally contemplated and that was prepared was while the LHI was still pending. We've just recently withdrawn that component. We've asked that the noise analysis be re-done. It was actually completed very late today. If I would have handed anything to you tonight I would have wound up like Charlie Bazydlo. I did not want that to happen.

Quite honestly, we have to go through it and just vet it and make sure it is accurate, et cetera. If that noise analysis winds up recommending mitigation, we'll install the mitigation.

I think Andrew -- the Board had some ideas last month about plan revisions with the building that Andrew will address for you.

I'm happy to get you additional -- the noise analysis that's been requested, we're happy to get that to you.

MR. FETHERSTON: There's the noise analysis. It does incorporate the crane component. It's not accurate any longer. However, what the analysis was proposing with the

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crane component was the noise barrier on the south of the building and on the west side of the building. We're proposing a short segment on this side and a short segment on this side. That was all that was suggested, in addition to specifying the specific type of interior sound insulated panel for the building for the architect to incorporate into his design.

What we've proposed is a building that stays outside of the floodplain. We've stated that to the Board a number of times, that the floodplain line actually traverses our property and renders it difficult to stay out of. This is the existing floodplain on the site. These two existing buildings that the neighbor was speaking about are both inside floodplains. That's why we didn't propose the building there. The building is in an area that's up high. The building is inside the setbacks, it requires no zoning variances and is in an industrial zone.

What we talked about with the Board at our last appearance and what we have not brought to the Board tonight because I did not submit that yet is that we did -- I told the Board we

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could move the building. I told you that and I did do it. That's what you're going to see on the next submittal, in addition to responses to the engineer's comments and the sound attenuating devices which will be on a submission -- a subsequent plan. We told you we were going to do it and that's what we've done.

CHAIRMAN EWASUTYN: Thank you.

The gentleman in the back.

MR. MARTINI: Good evening. My name is Jude Martini, J-U-D-E, like the song, M-A-R-T-I-N-I.

I believe that, Mr. Fetherston, you said it's an industrial zone. My understanding is it's an interchange business zone, it's not industrial.

With respect to the Board, Mr. Chairman, Members of this honorable Board, I'm the owner of 26 Route 17K, Town of Newburgh, New York. As you know, site plan review is required in order to ensure that proposed development and use of land within the Town of Newburgh will have a harmonious relationship with the existing or permitted use of contiguous land and of adjacent

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neighborhoods, and to ensure that the health, safety, welfare, comfort and convenience of the public is fully considered.

26 Route 17K is an existing professional office building which I have owned for about twenty years. My property is contiguous to the proposed crane project. In fact, the proposed crane fabrication building and truck loading bays would be just feet from my professional office building, virtually in my backyard.

As the bordering property owner I'm very concerned about the noise and the vibration from the fabrication of huge steel tower cranes. I'm also concerned about the noise and pollution from tractor trailer deliveries of steel and other materials. This is all in addition to the crane trucks themselves.

Our Town Engineer asked the applicant how many employees and truck deliveries are expected on a typical day. The applicant responded that, and I quote, the initial estimates for employees are thirty people working a single shift. Cranes or tractor trailers with

1 crane parts normally leave the site early in the  
2 morning to miss rush hour. A typical crane setup  
3 could take ten or more tractor trailers to erect.  
4 A typical operation would include four tractor  
5 trailers leaving the site in one day to provide  
6 the necessary materials to begin building a  
7 crane. Similarly, when these tower cranes return  
8 to the site, they're disassembled and loaded on  
9 trucks which would return to the site in  
10 staggered increments. Truck cranes stored at the  
11 site could also be called upon periodically and  
12 normally would require a flatbed vehicle to  
13 follow this type crane with counter weights and  
14 other equipment. At most, three or four  
15 deliveries of steel would be anticipated any  
16 given day. Parts, Federal Express, UPS, garbage  
17 trucks would also make deliveries and pick ups at  
18 the site.

19  
20 The proposed site plan allows the  
21 noisiest part of this applicant's operation to be  
22 placed right on the edge of the property. The  
23 applicant has approximately 100 acres of  
24 property. The crane fabrication building and  
25 truck loading bays should be pushed back as far



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away from the property line as possible.  
Further, a noise barrier wall should be required to mitigate the noise being generated by the applicant. With all due respect, the proposed vinyl fence is not going to safeguard the neighbors from this applicant's noise. It's like placing a Band-Aid on a shotgun wound.

At last month's Planning Board meeting the applicant admitted that it had not done any analysis of the noise it would be operating -- generating. The Board should require a professionally engineered noise shielding wall to protect the adjoining residents and property owners.

I thank you all for your attention.

CHAIRMAN EWASUTYN: Some of the information that Jude Martini spoke about, is that still on the table based upon the change of use or the use of the property? Can you speak on that perhaps so we could take some of that off the table as far as being a potential issue?

MR. FETHERSTON: Right. I think as Larry had stated, there are going to be no cranes on this site. No trailers with tower crane

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parts, no crane weights, no accessory vehicles to cranes. Nothing to do with cranes on this site.

The fabrication in that building is for structural steel for buildings and bridges. It's not building cranes. It's not fabricating cranes in any way. The client owns cranes at other locations. They're not going to be here given the current situation.

Just a couple of other things that were mentioned. There are no loading docks, no loading bays on this facility whatsoever. All of the loading is being done inside of that building. Crane trailers, nothing like that is proposed.

As I stated, the building is inside of the setbacks but on the plan, which is forthcoming, which I will be submitting at latest next week to this Board and to your consultants, I've taken this building and I've moved it from an old dimension off of the property line of 41 feet, we were able to move it back 20 feet which I told the Board I would. Now I'm at 61 feet behind the setback which only requires 30 feet. We're more than double that setback now.

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CHAIRMAN EWASUTYN: Can we discuss -- you had mentioned, I believe the gentleman's name is Jude Martini, had discussed a noise barrier, what you were originally proposing when -- I think her name was Carolyn Martini spoke about something very similar. Can you give us a little bit more detail as to at this moment or when you did speak of it, what you were thinking of?

MR. FETHERSTON: We did have professionally done by Phil Greal, Ph.D., PE did our noise study, but he had incorporated the cranes. I didn't give him that change because it happened too late. So what Phil is suggesting with the cranes, there will be some modification to this. A specific thermal safe panel which has an STC rating of 31. That's to deaden sound. He's suggesting a higher level of insulation than what was originally specified. The new building itself should also act as a partial sound barrier from the existing activities on the eastern portion of the site. The former auto body fellow up here is now a granite shop, but that's up on a high. That's up on a knoll, maybe 15 feet or almost 20 feet above the remainder of the

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facility. So he's up high. Then you have his building, then you're going to have our building. So there's going to be a pretty sufficient barrier against sound. We don't have any doors for these vehicles coming in and out or a source for the noise to get out of the building on the south or on the west side. This is the side where Stewart Avenue is and the residential neighborhood. This is the side with those businesses and supposedly some residents that could be inside of those businesses as well, as was stated by the neighbor. Along the southerly property line a noise barrier should provided. It hasn't been designed yet. It was never shown on our plans. We never had anything of a sound barrier. Now it will be designed because it's being recommended in the noise study. Those two locations are -- those two locations are on the west side here because the noise they thought could come out in this direction and also in this vicinity. However, there's plenty of room for that because we now picked up 20 feet of space. This building is 20 foot north now.

I've got a landscape planting plan on

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the next plan that I'm going to be submitting to the Board, and will also design that sound wall in that location exactly as specified in this noise study.

CHAIRMAN EWASUTYN: Okay. Additional -- what I'd like to do, sir, is give everyone the opportunity to speak, otherwise then there isn't a balance to the meeting.

MR. MARTINI: Yes, Mr. Chairman.

CHAIRMAN EWASUTYN: Thank you.

The gentleman in the back.

MR. CIOFFI: My name is Patrick Cioffi and I live at 117 Mill Street by Leptondale Elementary School.

With the information that has been circulated about the U.S. Crane affiliated businesses and their horrible track record on public and worker safety, I do not feel that this is the type of business that will benefit the residents of Newburgh. I have some information I'd like to pass out.

That's it for me. That's all I have to say.

CHAIRMAN EWASUTYN: Ma'am?

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MS. CLIFFORD: Hello. I'm Mary Clifford and I own 30 and 28 Route 17K. I also operate Arrowhead Realtors, and I have for over thirty years. My tenants are both commercial and residential, and they always have been for over thirty years.

I have an issue with the noise that will come from this type of project. I don't have an issue with a project, I just find that this type of project is going to make it difficult for me to do business as I have for many years, and it's going to make it difficult for my residential tenants.

Also, I have a bigger issue with an ingress and egress off of Stewart Avenue. Whether it be for an emergency ingress and egress or not, one should never be permitted. If you check the police records, I call 911 at least twice a week, and I have for years, about accidents that happen on Stewart Avenue and 17K. So I would give that considerable thought. I don't know if there's another place where they can have it. However, I would never ever allow that traffic, whether it be a small or large

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traffic amount, to go out onto 17K. Thank you.

CHAIRMAN EWASUTYN: Any response?

MR. FETHERSTON: The only other place where we touch a highway that isn't either topographically challenged -- like when you get down past the granite fellow, it really drops off into our site. It's heavily wooded and really drops off steeply. I don't think we could negotiate a driveway down that slope. The only other place that we're touching is Route 17K out at this location. The thought is that if there's something that goes on on 17K and it's closed or blocked off for any reason, perhaps they'd be able to get in Stewart Avenue. We did have, at the recommendation of the Town Board -- when we were proceeding and looking into the LHI zoning district, the Town Board at that time suggested that we have our own public meeting with the adjoining property owners. We sent out, again I think it was 90 notices at that time. 20 people showed up. The supervisor showed up, I think one of your Board Members showed up, but the fire department showed up. We had a lot of dialogue with the fire department. There's a hydrant over

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here, there's a hydrant here and there's a hydrant here. We just did the flow testing. We had over 1,000 gallons a minute at 115 psi. We're on main lines here. Firefighting is not an issue. They wanted another way to get into this building. As the Board knows, I originally had an employee entrance over on this side when I originally brought the plan before the Board. We took that off after conversations with your Board and with the discussions. But then we met with the fire department when we had our public meeting. They really were adamant about having that gated opening. So that's why that's there, and it's there for a very good reason. I don't think it will be a source of accidents as the concern is. I don't think it's going contribute to that. It will allow an emergency service provider to get in this way, whether 17K is blocked off or not. We are fronting on Tarr Road for a very long distance all on this side, on the whole west side. There's ecologically sensitive areas back there. We can't possibly access the site through those areas. This is that steep area. You wouldn't be able to negotiate a



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driveway down there that would be sufficient.  
It's really the best place.

CHAIRMAN EWASUTYN: Okay. Further  
comments from the public?

MR. FEDER: Bill Feder, Rockwood Drive.  
First, a little bit of semantics. Early on in  
this process someone took issue with the project  
being called manufacturing. According to the Oxa  
Dictionary, fabrication and manufacturing are  
synonymous. So I think it's not a misnomer to  
call it a manufacturing facility.

A couple of questions. The steel, when  
it's brought in will it be sandblasted, primed  
and painted before it's taken out?

MR. FETHERSTON: Do you want an answer  
to each --

MR. FEDER: I'll continue. If so, are  
there facilities to filter the air that will be  
injected into the environment, including  
volatiles and particulates and whatever else  
might be a result of that?

What would be the length of the beams  
that are going to be manufactured in this plant  
and how big is that going to be coming out onto

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17K and making turns and having to close off four lanes with guide vehicles to get them to the highway?

The crane issues are gone.

The plant. The construction of the plant, is that going to require rock removal? It sounds like it will be. Is that going to be blasted out? You're talking about an eleven foot depression in that area there behind the houses. I doubt that's all soil.

That in mind, when you're talking about planting trees of a certain size being required, is there going to be enough soil to support the trees once they mature or do you need to drill rock sockets to have a tree grow there?

The very first structure on Stewart Avenue as you turn off 17K is a multi-family residence. It's not a commercial business. It's not a house that's across the street. It's closer than anything that these people have been discussing here tonight. I don't think anybody is here to speak for that residence because it's a rental property. They don't have a voice in this whole thing.

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We talked about the noise.

I assume you'll have burning equipment, acetylene and oxygen. Where will that be stored? Will that be on a certain wall in the plant, will it be large facilities, large tanks?

Relating back to the cranes, I assume you would have fueling on site. I was going to ask where you would have a fueling tank but that seems like a non-issue at this point.

In the architectural rendering, what's the nature of the siding? What is that composed of? Is it vinyl, is it concrete?

There's no more truck maintenance or equipment maintenance.

I think that wears out or brings up enough points at this point. Thank you.

MR. FETHERSTON: Okay. Do you want to talk to the steel?

MR. McCOLGAN: Timothy McColgan, corporation counsel with U.S. Crane, 18 Route 17K, LLC.

The largest steel columns and beams will be, at most, that is maximum, the length of a trailer behind a tractor trailer. You can't

1 travel without special permits on the roads,  
2 especially the Thruway, going beyond the size of  
3 a trailer. Most of our steel beams, however, are  
4 for the erection of buildings in New York City.  
5 Your columns and beams can be anywhere from  
6 eight, ten, fifteen, twenty feet. None would be  
7 beyond the size of a trailer.  
8

9 MR. FEDER: You're going to build  
10 bridges? Make girders for bridges?

11 MR. McCOLGAN: That would require a  
12 special permit. That's not something that would  
13 come along on a regular basis. That would be a  
14 special project. Most of our business is the  
15 erection of buildings in New York City with many  
16 floors, and they have -- the sizes again are  
17 eight, ten, fifteen feet.

18 With respect to Stewart Avenue, if  
19 you'll remember, in the beginning we had an  
20 entrance from Stewart Avenue. Taking a neighbor  
21 into consideration, we took it out. So there  
22 will be no truck traffic on Stewart Avenue.

23 MR. FEDER: Noise is the issue.

24 CHAIRMAN EWASUTYN: Bill, Bill. It's  
25 not a debate back and forth.

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MR. FEDER: Okay.

MR. McCOLGAN: It's a good question.

All the fabrication -- the difference between manufacturing and fabrication is our steel is not manufactured on site, it's manufactured somewhere else. The difference is the chemicals, the products needed to manufacture steel will not be on this site. That's why we went -- we went at length to make sure that you understand that this is only fabrication. It's not manufacturing. So you won't have the chemicals, you won't have the hot steel, you won't have that environmental impact on this site. We will only be fabricating steel.

In connection to the sandblasting, et cetera, these are computerized machines. The steel will run up the bays. The computers are programmed. It cuts the steel. Anything that occurs will not occur outside the building, it will only occur inside the building. The ventilation will be that that's required for this type of building, a steel fabrication building, because obviously it has to be safe for the workers. So we're

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required to have that ventilation system within this building in any event.

There will be welding but it will be done by -- again, it will be done inside the building. Under the zoning rules we are able to use those types of tanks inside this building. Obviously you're going to have safety gear, we're going to make sure the ventilation is correct, we're going to make sure you have experienced workers doing the work.

The important point is nothing will be going on inside this building that does not fit squarely within the intended use of this property, the permitted use of this property.

MR. FETHERSTON: The only other things that weren't addressed is rock removal. There's no evidence of shallow bedrock here. We have not yet done geo-technical work. The building needs geo-technical work because there's very heavy cranes going on inside of this and the loads. We'll certainly be doing that.

Regarding soil for the trees. The

1 trees are proposed to be planted on the south  
2 just over the property line where we're having  
3 that twenty-foot additional area that will be  
4 landscaped. So that will be planted into  
5 existing soil. It's not going to be excavated  
6 down and we'll have a lack of soil. We don't  
7 believe that's going to be a problem. A licensed  
8 landscape architect in New York did those plans.

9  
10 There is no fueling proposed on the  
11 site at all. There is none now.

12 MR. SECKLER: The comment regarding the  
13 exterior building materials, the primary material  
14 would be a pre-finished, pre-painted, aluminum  
15 composite panel. It will vary on thickness based  
16 upon the STC ratings that the sound engineer will  
17 require. They'll vary from two to three inches  
18 in thickness and we'll have an insulation  
19 component in the middle on the exterior.

20 The other components on the exterior of  
21 the building will be aluminum framed, translucent  
22 panels or windows to get natural light into the  
23 building.

24 The roof of the building will be a  
25 standing seam aluminum roof. Those are the

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primary materials on the exterior of the building.

CHAIRMAN EWASUTYN: New comments from the public, please?

(No response.)

CHAIRMAN EWASUTYN: Okay. Additional comments? Jude Martini.

MR. MARTINI: I just have a question. Mr. Fetherston, you indicated that you were going to put sound walls and you took a highlighter. Do you mind showing to me where that's located? It's not on the submitted plans. The first time I'm hearing about it is this evening.

MR. FETHERSTON: It's also not finalized because the sound study was done for --

CHAIRMAN EWASUTYN: I'm going to interrupt the two of you. Realizing, Larry, that we don't have a report to substantiate what the height may be, let's just talk about it in a random sense. You're looking for some kind of mitigation measure as far as sound. We're going to keep it simple because I'm simple minded.

MR. MARTINI: I doubt that very much, Mr. Chairman.



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CHAIRMAN EWASUTYN: That's why I think I'm good at what I do, I really don't know a lot.

MR. MARTINI: I have a Brooklyn Bridge if you'd like to buy it.

CHAIRMAN EWASUTYN: My mother said I know how to manage money so I'd probably look to buy it.

Being serious. What do you envision to be a reasonable height for a sound barrier wall?

MR. MARTINI: Mr. Fetherston indicated that they got the results today. For the record, as of the last Planning Board meeting there was no sound. The first time, only after comments were made was that comment made. What was the recommendation as far as height?

MR. FETHERSTON: There is no recommendation yet. It's not been designed yet.

MR. WOLINSKY: It has to be engineered.

MR. MARTINI: Just so I understand, where you highlighted, is it with the red pen?

MR. FETHERSTON: Yes.

MR. MARTINI: So it would cover --

MR. FETHERSTON: It hasn't been designed yet. On the south abutting your

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property and abutting the Stewart Avenue area.

MR. MARTINI: So it would be tax ID number 99.55, 99.56, 99.52 and 99.54 on the 17K side?

MR. FETHERSTON: It has not been designed but in that vicinity.

MR. MARTINI: Do they recommend it for those areas?

MR. FETHERSTON: It has not yet been designed, sir. It has not yet been engineered, sir.

CHAIRMAN EWASUTYN: The Planning Board will work on those matters based upon the design results. I think what I'm --

MR. MARTINI: I'm at a disadvantage without knowing. This is for a public hearing and I'm getting told in that area. I can't comment --

CHAIRMAN EWASUTYN: We hear your concern. What I'm trying to get to a minimum as to what do you see to be a reasonable height based upon the engineering report on sound, based upon your satisfaction of a height.

MR. MARTINI: I'm a simple guy, too.

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More simple than you. The height that would be sufficient to mitigate the sound for the residents and property owners adjacent to this 66,000 plus square foot building.

One comment if I may.

CHAIRMAN EWASUTYN: Please.

MR. MARTINI: I happened to be here, I could not speak because it was not a public hearing. I was here at the last Planning Board meeting last month and I heard Mr. Fetherston, and I have a copy of the minutes in case my memory is not accurate, that they had -- they could move the building thirty feet further back. A gentleman, I believe it was that gentleman, I believe the principal, yelled out from the back of the room and said instead of thirty feet how about twenty feet. So my understanding is that there is some room to push the building back. At least that's what I heard at the last meeting. That's what the minutes --

CHAIRMAN EWASUTYN: What's the furthest the building could be moved back?

MR. FETHERSTON: I think we had forty-one before. We have sixty-one now. We

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were able to achieve twenty feet because we were maintaining that drive aisle and some minor amount of landscaping, then constructing the retaining wall on the north side of that road. We don't have any grading. We're not allowing a slope that would take up more space. We're putting a wall right there so we can shove everything as far as north as possible. We've got twenty feet additional.

CHAIRMAN EWASUTYN: We'll keep that on the table for when you come back with revised plans, if in fact you could increase it maybe --

MR. FETHERSTON: Sure.

CHAIRMAN EWASUTYN: -- to nearer to the thirty that was spoken of as compared to the twenty-one.

MR. FETHERSTON: Absolutely.

MR. MARTINI: Thank you, Mr. Chairman. Thank you very much.

CHAIRMAN EWASUTYN: Bill.

MR. FEDER: Regarding special projects and the length of steel, at a previous meeting, I don't know if it was here or the Town Board meeting, the applicant stated that he had a

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contract with the Thruway, or possibly DOT, I don't recall, that he needed a place central for between Buffalo and New York City to repair bridges and build bridges for New York State. So that's a large special project and that's not just one or two pieces of long steel that are going to be pulled out of that place.

CHAIRMAN EWASUTYN: At this point I'll turn it over to our Consultants. Ken Wersted, Traffic Consultant?

MR. WERSTED: We've reviewed the project relative to the access and the site circulation. A lot of that kind of goes away because the crane operations are no longer on the table. However, we do feel that the entrance right now is significantly wide. Obviously with the Auto Auction operations there are tractor trailers bringing in truckloads of cars, cars on trucks. We think that that entrance could be narrowed to something smaller but still accommodating the vehicles going in there. That was our primary concern with the project.

That was it.

CHAIRMAN EWASUTYN: Do you have someone

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in your office that could, on behalf of the Planning Board, review the work that Phil Grealy is about to present to us, the sound study?

MR. WERSTED: I'd have to check. I can advise you.

CHAIRMAN EWASUTYN: Okay. So I would suggest when you have the report, along with having a copy for our record, you should probably have a copy given to Mark Taylor, the Town Attorney for the Town. You send a copy so we can have someone review that on behalf of the Planning Board and the Town.

MR. WOLINSKY: Yeah. I mean the Town is no longer taking an action.

CHAIRMAN EWASUTYN: I would ordinarily do that.

MR. WOLINSKY: Absolutely. No problem.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance, do you see any issues as it relates to the equipment storage? How do you review that under the building code and building permit application?

MR. CANFIELD: Primarily my biggest concern with this site is the use. I've heard a

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couple different things and perhaps you can clarify them.

Are we talking about a single use per the IB Zone which is use D8, fabrication only?

MR. FETHERSTON: Yes. Fabrication will be the primary use, yes. There are accessories to that.

MR. CANFIELD: In your presentation you had mentioned mixed use including D11 which is what was there, the car wash. All of that is off the table? We're talking about a single use that is just fabrication?

MR. FETHERSTON: Yes.

MR. CANFIELD: I have to be quite frank. I have concerns with respect to being able to enforce what's supposed to happen here. What assurances can the Town receive, or the Code Compliance Department for that matter, that the use is going to be limited to exactly that, fabrication only?

Larry, I'm sure you're aware, we have a very difficult time enforcing the uses of these site plans. Not only this one but others. Then it costs the Town money to end up in court to try

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to get some type of enforcement and bring the site back into compliance.

So my concern is initially, perhaps help me, how are we going to be assured that this will be the occupancy that's going to be there?

MR. FETHERSTON: I'd like to address that if I could. I think you do that like you do every other site plan in any municipality in the United States. There are going to be notes on this plan restricting the use. I think those notes are going to have to be reviewed, and if there is found something that is not within those notes, not within the site plan approval, then there's a violation. That's how it's addressed, clearly.

MR. WOLINSKY: The only thing --

CHAIRMAN EWASUTYN: Michael, did you raise your hand?

MR. DONNELLY: I made a recommendation earlier during the work session and I'll repeat it now. I think what would be helpful to the Board and helpful to the applicant is you provide us with a written narrative of exactly what is going to be carried out on the site in



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description, in words, the sizes of the pieces, the hours of operation, the size of the trucks that come in and out, and specify what will be done on the site. We will then take that narrative, convert it into a map note that says the same thing, and also attach it to the resolution of approval and impose a condition that says only the activities listed on the attached narrative may be carried out without an amended approval from the Planning Board. That way we all understand exactly what can be done and what can not be done. It's on the map, it's attached to the resolution. I'm not saying enforcement is easy but at least there's no misunderstanding about what is and is not allowed. I think that's the best we can do.

MR. WOLINSKY: We're happy to do that.

I just wanted to point out for the record that when we submitted the letter to you advising the withdrawal of the LHI, we acknowledged expressly in that letter that if there were ever to be anything else done, and it triggered the requirement for site plan, we would come back.

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MR. CANFIELD: If I just may. That's a good point. In that letter, Larry, you mentioned the use, fabrication, and it's accessory uses. According to the bulk use requirement table, D8, the accessory uses permitted are truck loading facilities, signs, fuel tanks and swimming pools. So as long as we have that understanding, that that's the permitted uses that we're speaking about. If you have any other accessory uses, I think now would be the time to bring that forward to the Board.

MR. DONNELLY: You can probably skip the swimming pool.

MR. WOLINSKY: For example, the steel gets loaded onto a truck. That truck may sit at a location on the site before it goes off. It may be a period of time. I consider the ability of the truck to sit at that location for that period of time before it actually heads out to be an accessory parking kind of thing.

MR. DONNELLY: That area should be shown as a staging area for that purpose and delineated and marked on the site.

MR. WOLINSKY: Okay. You're -- okay.

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I mean -- I understand. I understand.

MR. DONNELLY: Only you know what you want to do.

MR. WOLINSKY: Other than that, I don't believe there is anything more that I can think of or that has been expressed by the applicant in terms of it's necessity at this point in time.

MR. SECKLER: Once we took the crane business out of the site it really restricted it to the fabrication. We have no objection to putting a specific narrative together to better lead the enforcement people and have it incorporated there. We have no objection to that.

MR. WOLINSKY: There will not be any swimming pools. At least not that I'm aware of.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Our previous comments from the last meeting are still outstanding. We haven't received a resubmission before the public hearing. We are looking for those comments to be addressed as well as these maps to be updated, changes based on the withdrawal of the LHI, things like crane and trailer parking. Those

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kinds of notes will need to be cleaned up.

I heard that the building is going to be constructed of sound proof panels but then there was also translucent panels. I'm not sure how soundproof a translucent panel can be.

MR. SECKLER: A translucent panel is a sandwich panel. It's typically the same thickness as an exterior wall panel. It does have an STC rating that we can provide to the Board for consideration. It will be part of the overall composition of that exterior wall.

MR. HINES: We'll be looking for that when we get the report in.

MR. CANFIELD: Just a question on that. Is that compliant with the energy code, that panel?

MR. SECKLER: I believe it does but I will confirm that.

MR. CANFIELD: Okay.

MR. HINES: A City of Newburgh flow acceptance letter is outstanding and will need to be provided prior to any approvals from this Board.

There was the comment on rock removal.

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That geo-tech hasn't been performed yet. Is that scheduled in the near future or can that question be answered before you reappear before the Board?

MR. FETHERSTON: We can do it when ever --

MR. SECKLER: We're laying out a soil boring plan based on the final location of the building. We don't want to drill the holes. We're talking about shifting the building again based on this evening's discussions. Once that is finalized we will be doing soil borings at critical locations and providing the geo-technical information to the Planning Board.

MR. FETHERSTON: Is that a requirement of site plan or is that for building --

MR. HINES: It's for building permit. We're addressing comments from the neighbors as to site plan and noise impact. I guess what I'm saying is if that's not done before any potential approvals, it may be a condition of approval. Should an extensive amount of rock be encountered that would require blasting, I think that may

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possibly re-open a SEQRA review if blasting is required. Or if you'll state that blasting is not at this point, it's a fairly large footprint there. It could have some significant impacts. It may be as easy as doing some test pits.

MR. FETHERSTON: That's what I was thinking. It may be easier to do test pits, and a lot cheaper.

MR. HINES: We'll be looking for the plans moving the building. We did have the thirty foot. We heard thirty foot earlier. I questioned at the last meeting whether thirty foot was practical. I guess the twenty feet is possible. We'll be looking to review that.

Right now we're not in a position to recommend any kind of an action by the Board. The City of Newburgh flow acceptance letter is out and I think there's going to be some substantial changes to the plan.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: Just a couple questions. I'll throw a monkey in the wrench. If he's not going to do anything else on the site, why can't

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the building be moved someplace else? You can build in a floodplain zone as long as you raise the building; is that correct?

MR. HINES: Yeah. It's not only that. The Town of Newburgh adopted the 2009 floodplain regulations which have some fairly onerous requirements if you are going to construct in a floodplain, including compensating storage and some other requirements that would have to go through a floodplain development permit. It would involve some extensive site work to raise this size building above a floodplain. I don't know how far back the wetland buffer comes. There's also the DEC wetland issues.

MR. GALLI: So basically that's the only place the building can go?

MR. HINES: To be outside the floodplain, yeah. The requirements are to raise -- I believe the building has to be now two feet above the floodplain elevation.

MR. FETHERSTON: Yes.

MR. HINES: It used to be one foot. You may be raising the building right back up where it was by the time you find out where --

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MR. GALLI: That's fine.

MR. FETHERSTON: Could I jump in on that?

MR. GALLI: No. Pat answered the question. I'm happy with that.

The second part is the size of the building. If you're only fabricating 5,10, 15, 20 -- say if you're fabricating 53-foot beams, that's the length of a trailer, why do we need a 165 foot long building by 345 foot as far as for fabrication?

UNIDENTIFIED SPEAKER: Put more people to work.

MR. GALLI: I don't want to get nasty. According to your thing here, your counsel says everything is safe. I'm starting to question whether it's safe or not.

But anyway, why do we need such a big building if you're only fabricating that many lengths? I've been to steel places before, a fabricating one in New Paltz and a couple other ones. The buildings aren't that huge. That's the other question I had.

MR. FETHERSTON: To answer that, just



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to not glaze over that, to answer that, the president on the wall over there is proposing a lot of infrastructure improvements, and that's what this is for. My client has three facilities, one up in Kingston that manufactures concrete planks. That place is cranking. I was up there. They are taking this stuff out all the time. Very busy. We're doing another facility over in Port Jervis. So this is not looking at a little small operation here. This is something that is looking to grow. That's what we're trying to do here.

MR. GALLI: My only concern is what's going to happen to the site?

MR. FETHERSTON: I'm sorry, I didn't hear you.

MR. GALLI: Once you get in there what's going to happen to the site? That's my concern. Enforcement.

The third and final thing, Mrs. Clifford was it I think?

MS. CLIFFORD: Yes.

MR. GALLI: The emergency access doesn't get used every day. It gets used --

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hopefully it never gets used, but it's there in case the emergency people need it, fire, ambulance, something like that. If they do need it it's there. Come off of Stewart Avenue, because the fire jurisdiction actually comes from Tarr Road, over to Stewart Avenue. You've probably heard the fire trucks and seen all the accidents on the corner. That's a way for them to get in to 17K. Hopefully they never have to use it. I don't know, the safety record they have, they might be using it a lot. I think it's a good idea if we have the emergency access there. It's blocked off. It's usually keyed so the fire department and EMS can have access to it.

MS. CLIFFORD: My worry is that they're going to use it for other than emergencies. There are just countless accidents there and someone is going to get killed. I've asked for a light. I've spoken with the supervisor. He said it has to go through the State because that's a State road. So it's only a matter of time. We're very careful. You can not allow anyone else in and out of Stewart Avenue. It will be

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deadly.

MR. GALLI: I just think there's a lot of questions that need to be answered yet. That's all I have, John.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The noise study we haven't seen yet, but do you know if they took any ambient property line noise readings there?

MR. FETHERSTON: That's what I read. Yes, they did. Bear with me a second.

MR. MENNERICH: Was there a conclusion that you could maintain that noise level at the property lines after this facility is built and the walls are put up?

MR. FETHERSTON: I'd like to submit the report. I'm not the expert speaking on this. Maybe I'll bring the expert who did the report. I could tell you that he says existing measured noise levels during the peak periods range from the mid 60s to the mid 70s along Route 17K and the mid 50s to 60s along Stewart Avenue. At certain times the measurements -- measurement

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levels closer to Route 17K were observed exceeding 85 decibels during daylight hours. That's a busy road. Let me submit this to the Board's expert and let him speak to the Board.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: First, I really have empathy with the residents, and I want to thank you for coming here tonight. You raised some great points. I know firsthand. I have a family member that lives near an automotive shop. What divides her residence with the shop is a wooden fence. What do you hear in the summertime? The sounds of an automotive shop. So I would strongly suggest that you re-look at the noise barrier. I'm glad we're making progress with that. Let's go the whole length, all the residents and businesses. Sound travels. Let's see something like that at our next iteration.

MR. FETHERSTON: Yes, we will.

MR. DOMINICK: Second, Frank said it, you've got 97 acres. Can't you move the building somewhere else?

MR. FETHERSTON: No. No. Let me show you the existing map if I could. This is not

1 clear to the Board and I want to make sure it's  
2 clear exactly what this -- what the owner owns.  
3 The available area on the site is the paved area.  
4 There's approximately 25 acres of the 95 total  
5 that are paved and/or have buildings on them.  
6 The rest is a New York State DEC buffer  
7 surrounding Brookside Pond and the Quassaick  
8 Creek. There's a 100 foot buffer around that.  
9 Besides that, the floodplain goes across this  
10 property in that area that I highlighted  
11 previously which precludes me from going in other  
12 areas unless I want to provide what is also known  
13 as a floodplain permit. I'm a certified  
14 floodplain manager. I'm an expert at this.

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16 This is another area where it would  
17 require mitigating measures. If you fill one  
18 area you have to provide storage in other areas.  
19 We've done these permits with Jerry's office  
20 before. I know what it takes. If I have to fill  
21 an area I have to dig a hole somewhere else.  
22 It's all pavement. It's all being utilized.  
23 There really is no other good spot, any viable  
24 spot to put this on this property. This line is  
25 really our cutoff for development. We're not

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doing anything past that line. No fill whatsoever.

MR. DOMINICK: Let me ask you this, Andrew. You mentioned that you had to put landscaping. Where are you going to put landscaping when we're shifting the building back? You said you've got to put the landscaping in and a retaining wall.

MR. FETHERSTON: In this area.

MR. DOMINICK: Can we eliminate the landscaping and maybe gain six or eight feet?

MR. FETHERSTON: The pinch point is right here. There's one pinch point and it's right there. The line isn't parallel with the building. There's one spot that pinches down twenty feet. That's that. That's the twenty feet that I gave up. It's the only area that I have and still fit this building within the setback on the west side but slide it up and away from the buildings on the south side.

MR. DOMINICK: I understand that. That's making progress. I appreciate that. You said that we're going to have a retaining wall and landscaping. Can you eliminate the

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landscaping and maybe gain another six to eight feet so instead of twenty feet maybe we're back to that twenty-six, twenty-eight feet, nearer to the thirty?

MR. FETHERSTON: Unfortunately, sometimes when you're in front of the Board you try and give them a good estimate. I gave you a lousy estimate last time, in all honesty. I was corrected by your engineer who said I don't think you're going to get thirty feet there. I looked at it again and I said you know what, you're right. When I did it I got twenty. I got the plans in my office which are coming to this Board and will be submitted. We did the best we could. We don't have a landscaped area, a large wide garden. I have a strip. That's really what I have.

MR. DOMINICK: How wide is the strip? That's my question.

MR. FETHERSTON: I'll put a number on it.

MR. DOMINICK: Maybe we could eliminate that.

MR. FETHERSTON: We can probably get

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from twenty to twenty-two feet or something like that. The thirty was unfortunately a little aggressive on my part.

UNIDENTIFIED SPEAKER: Get rid of the landscaping. Forget about it. We don't have to put the trees there.

MR. FETHERSTON: It's not landscaping for trees. It's a strip of grass.

MR. DOMINICK: Finally, to address Ms. Clifford's concern about the emergency access, you will have a chain on it?

MR. FETHERSTON: It will be gated.

MR. DOMINICK: I'd prefer a gate, a locking gate.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: First, I think forget the sound study and everything else. I think you should put the noise barrier up no matter what. Everybody is talking numbers. It doesn't matter. The residents, businesses, do it. That's what I say.

And then the landscaping, I saw you had smaller trees. I'm recommending ten to fourteen feet instead of the shorter ones that you had on



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the plan, this way you have a bigger buffer over the years and everything.

I'm the one that mentioned moving the building.

Then your fabrication projects, you mentioned bridges, you had mentioned projects in New York. Basically I'm asking, and it's hard to say if you're doing the Tappan Zee Bridge and you have a beam that big, how do you get it out on 17K? I'm asking. It's a question that even you can answer.

MR. AURINGER: We're not building the Tappan Zee Bridge, so -- that's finished. You splice members. You design for spliced connections.

MR. WARD: What's the biggest beam you take out of the facility?

MR. AURINGER: They're special jobs. We build high rise construction in New York City every day. We have multiple projects for many, many years to come. So the manufactured beams, like everyone was speaking of earlier, can vary between one foot up to forty feet, fifty feet. They go on the back of the tractor trailer

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flatbed and get transported down to New York. Occasionally you'll have some longer members, and that will be in the report, and we'll submit the report.

MR. WARD: Like Hudson yards, you have beams there, different sizes and all that. That's why I'm trying to have the public hear what it is. It's not like you have a 300 foot beam. That's why I'm trying --

MR. AURINGER: You're not having a 300 feet beam. You're going to have girders manufactured together with all specialty robotic welding equipment. Usually there are two or three shaft columns or they're transfer girders and they fit on the back of the flatbed for 90 percent of the operation.

MR. WARD: For the record can you tell us your name?

MR. AURINGER: Tom Auringer.

MR. WARD: When you were saying accessories and you were saying parking trucks and everything else, are you putting on the plan of -- how would you put it -- accessories? You were saying put staging places, put it on the

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plan and all of this. All we're asking is to make sure it's organized materials, not a junkyard.

MR. AURINGER: It's not a junkyard. We've got a junkyard in the Bronx.

UNIDENTIFIED SPEAKER: Can I address that? When we get structural steel plans, everything is agreed upon beforehand. When you get your job in, you have to -- you have to stow it on the trucks as the plans come in. So in other words, you're not going to ship 57,000 pounds of steel out of order to a building. So it's very organized, from inception to conclusion. You have to follow the structural drawings. So what you'll do is when you fabricate your steel, you will row your trailers in order that the erection is taking place in New York City according to the structural steel plans. Your trucks will come in, you'll link up, you'll pull out according to the structural steel plans. You'll go down to the City, you'll erect for that day, you'll come back up and you'll follow that same schedule. So by definition, in order to follow the plans it has to be organized.

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You're not going to waste the money and show up in New York with the wrong truckload. They'll send you back and you lose that day's work.

CHAIRMAN EWASUTYN: Mike Donnelly, comments at this point?

MR. WARD: Not yet. And with the building, the colors, the way you have it, this is Town of Newburgh. I don't want Carlstadt, the mall down in Jersey. I'd rather see it more two toned than a piece here and a piece there. It looks like a shack. Please re-evaluate the ARB.

MR. SECKLER: I will revisit that.

MR. WARD: And you covered everything. Thank you.

MR. GALLI: I just have one question. Since this project is going forward and now we're into a single use for U.S. Crane only, I see a new sign up there for sale or for lease. Are we going to lease it out for multiple different uses to someone else? I know you had the Auto Auction in there. Now there's a new sign. It doesn't look that old. I haven't seen it and I ride by there every day. It's probably been up a couple weeks, maybe three weeks. Is there something we

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don't know that's going to go in there? Are you going to lease it out all of a sudden after you do get approved?

MR. McCOLGAN: No. If I might address that. No. Once we took the crane business out, and I can't speak to the sign. I really can't. I can tell you that right now there is no proposed use for this building. As Larry has told me, if there will be a proposed use for this building we'll be back to see you. So I can state for the record that right now there is no proposed use for this building. If there is, we'll have to come back and see you.

MR. GALLI: I'm just curious why a new sign was up. It's in your picture also.

MR. McCOLGAN: I don't know what else to say. There's no proposed use of that building.

MR. GALLI: Why do you need the sign?

MR. McCOLGAN: Sir?

MR. GALLI: I'm just saying. It's in your picture.

MR. WOLINSKY: They still have a right to rent the building. If they do we'll be back

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here for permission.

MR. GALLI: If it's going to be that quick I think we have a right to know.

MR. WOLINSKY: Right now there's nothing proposed.

MR. GALLI: We'll take your word for it.

MR. FIORAVANTI: My name is Bill Fioravanti, I'm with the Orange County Partnership, the economic development office for the county. My title is director of business attraction, and the whole intent is to bring in jobs. I've been working with these folks for over a year. They've been honorable. They work with the community. They've gone out of their way, had a voluntary public meeting which I think was very productive. We're fully behind this project. Unfortunately I felt the need, I didn't think I needed to speak before but I did want to comment on really the character assassination that they've been subjected to. Just to try to explain that. Our office has done the research on that. We've worked with this applicant and we have a good understanding. It's really character

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assassination that comes from the unions in the city. This is not a union company. The proportion of union to non-union construction companies in the city has really diminished. They'll really going out of their way to try and go after companies like this that are non-union. They've been -- for twenty years they've been after this company. It's propaganda. I see these kind of materials. It's really funded by the unions to try to put out this negative propaganda. We've been working closely with them. They've been forthright and honorable. They've done everything they needed to do and I wanted to be on the record to show our support despite some of these, honestly, garbage claims.

CHAIRMAN EWASUTYN: I'm about ready to close the public hearing. We'll take one more comment in the back.

MR. FAGIOLA: My name is Anthony Fagiola, I'm with the New York Community Alliance for Workers Justice. I can assure you that this company is not going to bring any kind of benefits to anybody in this community. We've been following them, too. The information that

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was handed out has been legalized and vetted and is all true. He's notorious for worker exploitation, mistreatment, sexual harassment, wage theft, accidents. People get hurt in his yards. He has accidents in his yards. That's what's coming to the Town of Newburgh. Thank you.

CHAIRMAN EWASUTYN: Mike Donnelly, in preparation for the close of the public hearing.

MR. DONNELLY: I think what we need to have is revised plans that show the reduction and the extent of the uses, the careful narrative that we spoke about, the sound analysis test and your proposed mitigation plans. I think we need to have all those things in sufficient time for the Board to review at the next meeting.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Just one additional thing. If the next submittal can also detail any outside storage of materials, --

MR. FETHERSTON: Sure.

MR. CANFIELD: -- that would be very helpful.

CHAIRMAN EWASUTYN: Any additional



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questions or comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to close the public hearing on U.S. Crane & Rigging.

MR. GALLI: John, do we need to close it with all the information we're lacking? We don't have the plans or anything about the noise.

CHAIRMAN EWASUTYN: I'm making a motion. It's a majority vote.

MR. GALLI: That's fine.

CHAIRMAN EWASUTYN: Do I have a motion to close the public hearing?

(No response.)

CHAIRMAN EWASUTYN: Okay. Then I'll set the continuation of the public hearing until the 18th of May. Do I have a motion for that?

MR. DOMINICK: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

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MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

MR. FETHERSTON: Thank you.

MR. WOLINSKY: Thank you.

CHAIRMAN EWASUTYN: Now that we don't have any Board business, I'll move for a motion to close the Planning Board meeting of the 20th of April.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 9:42 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 11th day of May 2017.

*Michelle Conero*

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MICHELLE CONERO