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

----- X

In the Matter of

DRURY HEIGHTS
(1994-41)

Drury Lane
Section 89; Block 1; Lot 6
R-3 Zone

----- X

PUBLIC HEARING
100-LOT SUBDIVISION

Date: April 2, 2009
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: BRIAN BROOKER

----- X

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

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DRURY HEIGHTS

MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of April 2, 2009. At this time we'll call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

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

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

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

MS. HAINES: Thank you. At this time I'll turn the meeting over to Joe Profaci.

(Pledge of Allegiance.)

MR. PROFACI: Please remember to turn off your cell phones. Thank you.

MS. HAINES: The first item we have on the agenda tonight is Drury Heights. It's a public hearing on a 100-lot subdivision, it's located on Drury Lane in an R-3 Zone and being represented by Brian Brooker.

CHAIRMAN EWASUTYN: All right. I think in the absence of Brian Brooker we'll hold off Drury Heights until later this evening when Brian has come in.

Is he there?

MR. WERSTED: No.

CHAIRMAN EWASUTYN: Brian is coming up from Rockland County so it's possible that he got

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tied up in traffic.

Dina, would you announce the following item on the agenda.

MS. HAINES: The next item is the Lands of Post. It is also a public hearing. This is for a two-lot subdivision located on the northeast corner of Route 300 --

CHAIRMAN EWASUTYN: He's here? Maybe we'll wait then. Thanks.

MR. BROOKER: Hello. You guys are very prompt.

CHAIRMAN EWASUTYN: Dina, why don't you reintroduce the project one more time so we can get back to focusing.

MS. HAINES: Okay. The first item we have is Drury Heights. It's a public hearing for a 100-lot subdivision located on Drury Lane in an R-3 Zone. It's being represented by Brian Brooker. I'll have Ken Mennerich read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a

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public hearing pursuant to Section 276 of the Town Law on the application of Drury Heights for a 100-lot subdivision on premises Drury Lane in the Town of Newburgh, designated on Town tax map as Section 89; Block 1; Lot 6. Said hearing will be held on the 2nd day of April 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 March 6, 2009."

MR. GALLI: The notice of hearing was published in The Sentinel on March 13, 2009 and in The Mid-Hudson Times on March 16, 2009. The applicant's representative sent out forty-seven registered letters, forty-four were returned. All the mailings are in order.

CHAIRMAN EWASUTYN: Before I introduce Brian Brooker to make a presentation on Drury Heights, I'd like to turn to Mike Donnelly, Planning Board Attorney, to introduce where we are with this project for the public.

MR. DONNELLY: This project has been

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before the Board for many years. Tonight the public hearing is on a proposal to reduce the size of the subdivision from a 144-lot version that was approved some years ago to a 100-lot version that's on the board up there.

The Board had heard from the public in earlier stages, including a full environmental review under the State Environmental Quality Review Act as well as holding a subdivision public hearing in the past as well. There are some changes in the layout. The Board had determined in the recent months that SEQRA did not need to be reopened because there are no environmental impacts not covered by the existing Environmental Impact Statement, however the Planning Board did issue an Amended Findings Statement based upon this newer proposal. So the purpose of tonight's hearing is not to revisit the old subdivision, not to revisit the environmental review that was conducted earlier, but to hear comments from the public on the new reduced size layout.

CHAIRMAN EWASUTYN: Brian.

MR. BROOKER: Okay. Good evening. Can

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everybody hear me all right?

UNIDENTIFIED SPEAKER: Mm'hm'.

MR. BROOKER: Okay. If you can see the map. As was stated, the project is being reduced from the 140 lots that it was originally approved at to a 100-lot subdivision under an agreement with the Town.

That's the primary change to the subdivision, the lots.

The road system remains relatively the same. This road used to come through and there were additional lots on it, and there was a cul-de-sac over here with lots on it that were eliminated.

For those of you who maybe weren't here for the 140-lot review, just let me bring you up to date where the project is. This is Drury Lane which has now been dead-ended in a cul-de-sac. I assume most of you know where that is. Colden Park is down here, which is to the I guess east. Route 17K is off the map up here in the north. I think there's a gas station on the corner now.

The project gets its water from the water mains on 17K. They'll be brought down the

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old Drury Lane and into the project, and it's looped into the Colden Park water system. The sewer system is collected and pumped into Colden Park, and from where that sewer connection is made there's an improvement to the Colden Park sewer pipes, an upgrade that would bring it to the pump station located in Colden Park.

The lots are similarly arranged but there's fewer of them. The open space where -- all the land you see that's shaded here is being dedicated to the Town as well as this parcel here and this parcel over here. So the Town will pick up a lot of land that will be permanently set aside for whatever purposes the Town wishes to use it for, recreation or just open space.

I think that's pretty much the summation of the changes to the plan.

MR. DONNELLY: Brian, the other change is phasing. It's now proposed to be built in four separate phases.

MR. BROOKER: Right. Well it was always proposed to be built in phases. I think we had six then and now we have four. It is proposed to be a built in phases. The various

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hatching refers to the phases. Phase I is this portion right here along the aqueduct that comes basically from here to the bulb of the cul-de-sac that was built. Phase II comes into here. Phase III I believe is this. Phase IV is the final piece through there. So it's phased because it may take some time to complete all the sale of houses in the subdivision. Instead of having the entire place being worked on at one time, it's done in steps.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to the public. We ask that you give your name and your address and speak slowly for the Stenographer.

Ma'am.

MS. GIUNTA: Helena Giunta, 74 Westwood Drive, East Coldenham. I have a couple questions. Can you point out to me where Winchell Drive is? I can't see the map that well.

MR. BROOKER: Winchell Drive is right here along this perimeter.

MS. GIUNTA: Okay. So that would be the first phase?

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MR. BROOKER: Yes.

MS. GIUNTA: That would be included in the first phase?

MR. BROOKER: It comes up to Winchell Drive. That's the first phase, yes.

MS. GIUNTA: The lower end of Winchell Drive or in the back where the houses are?

MR. BROOKER: I believe --

MS. GIUNTA: Actually there's houses all over the place now.

MR. BROOKER: The road you enter off of, the new 747 I guess, you come up and cross the aqueduct that's right here, then there's just the first two houses right here. Those houses are adjacent to those three lots. There's only three lots which would be the backyard and you'll be looking toward Winchell, and then you get a blank space, and then eventually there will be -- probably these two lots will be also invisible from Winchell Drive when you see them. This is phase III.

MS. GIUNTA: How will you access those homes?

MR. BROOKER: These homes here?

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MS. GIUNTA: Yes.

MR. BROOKER: There's a road being proposed that comes off of the cul-de-sac and comes along the aqueduct and rises up the hill and comes to here. So those homes are accessed from --

MS. GIUNTA: So there will be only one road in and one road out or is there going to be eventually a loop where there will be a second egress from that?

MR. BROOKER: Well the second egress is here.

MS. GIUNTA: And that is where?

MR. BROOKER: Do you know where Charlestown Road is?

MS. GIUNTA: Yes.

MR. BROOKER: It would be north of Charlestown Road. Between Charlestown Road and 17K.

MS. GIUNTA: Again it will go onto Drury Lane?

MR. BROOKER: Yes.

MS. GIUNTA: Okay. The other thing is the sewer system. I live in Colden Park. Have

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you ever been anywhere near that sewage plant
when we have heavy rains?

MR. BROOKER: Yes. Well I haven't been
there when you had heavy rains but we have lots
of records that -- when we designed the upgrade
to the system we had been provided with lots of
records with regard to the flows and the problems
with the plant that's there.

MS. GIUNTA: When would the upgrades
take place?

MR. BROOKER: They would take place as
part of phase I of the project.

MS. GIUNTA: So it would be prior to --

MR. BROOKER: Another pump gets added
to the pump station and pipes are made larger in
Colden Park.

MS. GIUNTA: Okay, because that place
is a horror. If I lived at that end of the road
I would have sold the house a long time ago. I
don't know how the people deal with it.

MR. BROOKER: I think the Town has an
I&I program that's going on. I understand they
have some improvements planned. Even if this
doesn't come along and didn't come along, they do

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have a contingency. I don't know where those plans are in terms of being ready to be implemented but I know that they were planning on that.

MS. GIUNTA: I don't know how that -- what they've been doing is fixing the pipes under the roads as far as leakage goes. I don't know how that's affecting the pump station. Like I said, when we have heavy rains, especially in the spring when the ground is already wet, I mean I wouldn't want to live there.

MR. BROOKER: The problem with the flooding of the station is that when the pipes are broken under the ground and it rains, those drains act like an under drain and they start to pick up the groundwater and that floods out the plant. You are picking up surface water from the rain or groundwater from the rain and it's overloading the system.

MS. GIUNTA: You said there would be another pump station built?

MR. BROOKER: We're just upgrading the pump station there. It's currently a two-pump pump station. We're upgrading it to three. So

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there will be three levels of pumping for low flow, medium flow and high flow with the three pumps.

MS. GIUNTA: The other thing is your water is also going to come through the Colden Park lines?

MR. BROOKER: Our water is coming from 17K in, and we have an interconnection, a looping that loops into Colden Park. That provides for a redundancy of our system to be back fed, or a redundancy of Colden Park, which means that if there's any problem with a line that comes in from 17K to Colden Park, that the water could be back fed from here into there to provide them with water. So most of the water system designs incorporate that kind of redundancy so that you can feed it this way and then if something goes wrong you can feed it the other way.

MS. GIUNTA: Just one more question. Do you know how far up Winchell in relation to the homes on Westwood Drive, how far up you're going to be building?

MR. BROOKER: This is Winchell Drive.

MS. GIUNTA: My house borders Winchell

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Drive.

MR. BROOKER: So you're down here?

MS. GIUNTA: I'm at 74.

MR. BROOKER: Okay. If you're at this bend in the road, that gets close to Winchell. Is that where you're talking about?

MS. GIUNTA: My backyard borders Winchell.

MR. BROOKER: Okay. I would say you're about maybe 300, 400 feet from the nearest home that would be proposed.

MS. GIUNTA: That close, huh?

MR. BROOKER: Well I don't know which house you are but it could be that close. You know, every inch on this map is 100 feet. That's like --

MS. GIUNTA: My concern is that my backyard is Grand Central Station for the people who live on Winchell Drive as it is. I mean we've got traffic through there, foot traffic coming through there at all hours of the day and night now because there's so many houses on Winchell. I don't want to have to put up a fence to keep another 100 houses from cutting through

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my yard to get into Colden Park.

MR. BROOKER: I don't know how they cut through but they would have to go through private property.

MS. GIUNTA: I've got the only place they can cut through, and we've left it that way over the years because the kids used to go back and forth. Like I said, now there's so many houses back there it's constant. I mean people are coming by at 11 o'clock at night. My dog is barking at people. 7 o'clock in the morning people are coming through with baby carriages to walk their kids around.

Thank you very much.

MR. BROOKER: Okay.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Okay. At this point I'd like to turn to our Attorney, Mike Donnelly.

MR. DONNELLY: Do you want me to go through the draft resolution?

CHAIRMAN EWASUTYN: Would you please.

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Thank you.

MR. DONNELLY: I had provided each Member of the Board with a copy of a proposed resolution that ties into the provisions of the stipulation that was entered into between the Town and the developer as well as those conditions that are required before the Board can act. I'm not going to read them all but let me go through them and highlight some of the more important ones.

First on page 5, condition 1, the approval is subject to and conditioned upon performance of the terms of that stipulation of settlement that I just mentioned.

Secondly, the development is bound by all of the terms of the SEQRA Environmental Impact Statement, and the Findings, and Amended Findings Statement that were issued, and this goes on to say that should any inconsistency between the terms of the stipulation and the resolution be discovered, then the stipulation shall govern.

Significantly the applicant is going to have to enter into an outside user agreement for

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sewer service. Condition number three ties into that.

There are certain contributions that are required to be made, and some of the upgrades Mr. Brooker spoke about earlier, they're part and parcel of that stipulation and therefore part and parcel of this resolution.

The applicant is required to make a fair share contribution to the traffic improvements at the Route 17K/Rock Cut Road intersection.

Conditions five and six require that clearing limits be clearly marked in the field and that they be honored during the course of construction.

As was mentioned earlier, this project will be phased, and in condition number seven we talk about the requirements of phasing, most significantly that the infrastructure in phase I must be completed before any certificate of occupancy can be issued in any other phase.

The appropriate financial security and inspection fees will need to be posted according to the terms of the stipulation of settlement.

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Specifically those are a landscape security and inspection fee, a stormwater improvement security and inspection fee, a water main extension security and inspection fee, a sewer main extension security and inspection fee, a Town road security and inspection fee.

There are offers of dedication that need to be delivered to the Town as part of the plan, and those must be done at the times set forth in the stipulation of settlement.

Finally, because the developer has set aside more than ten percent of the land area of the subdivision and given that to the Town for open space and recreational purposes, there will be no requirement of parkland fees in this matter.

Those are the proposed terms of the resolution of approval.

CHAIRMAN EWASUTYN: Questions or discussion from Board Members as far as the resolution of approval for preliminary approval and final approval of the subdivision. Frank Galli?

MR. GALLI: No additional.

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CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you.

CHAIRMAN EWASUTYN: Before I move for a motion to close the public hearing, is there anyone here in the public who has any questions they would like to raise before I close the public hearing?

MR. TIGHE: I have a quick question.

CHAIRMAN EWASUTYN: Would you please give your name and address, sir.

MR. TIGHE: Chris Tighe, 64 Westwood Drive. Sometime ago Mr. DeMuro came to our meeting and gave a terrific presentation on the style of houses. I was just wondering, with your scaled-down project is that the same pretty much?

MR. DeMURO: Yeah. I don't see any significant change. I think it's just about the same.

MR. TIGHE: That's all I had. Thanks.

MR. BROWNE: Can you identify yourself?

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MR. DeMURO: I'm sorry. Lane DeMuro.
I'm the owner of the project.

CHAIRMAN EWASUTYN: The lady in the
back.

MS. CUNNINGHAM: I'm Paula Marie
Cunningham, I live in Colden Park. I'm also a
volunteer firefighter for the Coldenham Fire
Department. I was just wondering, are we going
to have enough fire hydrants for our trucks to be
coming in, God forbid we need to go in there,
whether it's for a fire or a medical call? Are
we going to have complete room to have our trucks
access the area so we wouldn't get stuck in
there?

MR. DeMURO: Yes. All of that has to
be done before we get to that stage. It has to
be reviewed by the Department of Health for all
the water, the capacities and all that stuff, and
all of that has been taken into consideration.
Brian may even have them all on the map. I don't
know. Maybe he can answer you better.

MR. BROOKER: Before you can have final
approval you have to have Health Department
approval. The entire system has been designed.

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The Town has had the model performed by -- what's the name of the company -- Sterns & Wheeler in Syracuse. So the entire subdivision and water mains have been modeled and they provide fire flows as well as domestic water.

MS. CUNNINGHAM: If we lost power, God forbid we have a fire or anything.

MR. BROOKER: They have plenty of water for fighting the fire. That's part of the system design.

Getting back to the question about the housing. Basically the housing, the housing is market, you know, driven. So in terms of the sizes of the houses and everything, I don't know what exactly you were talking about in this -- was that a public hearing?

MR. DeMURO: No.

MR. TIGHE: That was with the homeowners.

MR. BROOKER: I didn't remember it. That's why. I guess I wasn't at it. Thank you.

CHAIRMAN EWASUTYN: Final questions from the public before we move to close the public hearing?

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(No response.)

CHAIRMAN EWASUTYN: There being no final questions from the public, I'll move for a motion to close the public hearing.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Having heard the resolution of approval for the preliminary amended and final subdivision presented by our Attorney, Mike Donnelly, I'll move for a motion to approve that.

MR. PROFACI: So moved.

MR. BROWNE: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried. Thank you.

Mike, I think you wanted to mention one other thing as far as the preparing of the maps and the signing of the maps we discussed at the work session.

MR. DONNELLY: The issues regarding filing will have to have some kind of coordination with Jim Osborne and Mark Taylor for when those are to be paid so the building office has everything hooked up. Most of the bonding is going to be paid at a later date. Whenever any phased plan is brought in for signature we're going to have to make sure that Jim Osborne makes

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sure that whatever bonding is required, that phase is in place and that phased plan conforms with the originally approved plan. It's logistics. I'll need to talk with Jim Osborne and Mark Taylor so that's in place.

MR. BROOKER: At each phase?

MR. DONNELLY: Yes.

MR. BROOKER: Okay.

(Time noted: 7:23 p.m.)

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

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

DATED: April 18, 2009

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

----- X
In the Matter of

LANDS OF POST
(2008-03)

Northeast corner of Route 300 and Hidden View Drive
Section 11; Block 1; Lot 35.21
AR Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: April 2, 2009
Time: 7:24 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CRAIG MARTI

----- X

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

1
2 MS. HAINES: The next item of business
3 we have tonight is the Lands of Post. It is also
4 a public hearing on a two-lot subdivision located
5 at the northeast corner of Route 300 and Hidden
6 View Drive. It is located in an AR Zone and
7 being represented by Craig Marti.

8 MR. MARTI: Thank you.

9 CHAIRMAN EWASUTYN: I'll ask Ken
10 Mennerich to read the notice of hearing.

11 MR. MENNERICH: "Notice of hearing,
12 Town of Newburgh Planning Board. Please take
13 notice that the Planning Board of the Town of
14 Newburgh, Orange County, New York will hold a
15 public hearing pursuant to Section 276 of the
16 Town Law on the application of Lands of Post for
17 a two-lot subdivision on premises at the
18 intersection of the northwest corner of Route 300
19 and Hidden View Drive in the Town of Newburgh,
20 designated on Town tax map as Section 11; Block
21 1; Lot 35.21. Said hearing will be held on the
22 2nd day of April in the Town Hall Meeting Room,
23 1496 Route 300, Newburgh, New York at 7 p.m. at
24 which time all interested persons will be given
25 an opportunity to be heard. By order of the Town

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LANDS OF POST

of Newburgh Planning Board. John P. Ewasutyn,
Chairman, Planning Board Town of Newburgh. Dated
February 20, 2009."

MR. GALLI: The notice of hearing was
published in The Sentinel on March 13, 2009 and
in The Mid-Hudson Times on March 18, 2009. The
applicant's representative sent out ten
registered letters, five were returned. The
mailings are in order.

CHAIRMAN EWASUTYN: Craig.

MR. MARTI: Thank you. For the record
my name is Craig Marti. The project which is
presented here tonight consists of two existing
lots which are owned by Cindy and Scott Post.
The first is a one-and-a-half acre residential
parcel at the corner of Hidden View Drive and
Route 300, and an adjacent parcel which is
currently occupied, it's roughly three acres in
size and is occupied by Miss Cindy's Neighborhood
Nursery School.

The existing configuration of the lots
is such that there are existing nonconformances
with the Town zoning, including some setback
issues with regard to the residential house at

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the corner of Hidden View Drive and Route 300 and an actual encroachment of the parking area for the nursery school across the common property line, and a very narrow setback or a nonconforming setback of the garage area that goes along the nursery school.

The proposal is to reconfigure the lot lines, which basically consists of an equal land swap between the parcels as shown, to create a new line, which is the solid red line, to replace the dashed line as shown on the drawing. The resultant lots are the same, 3.1 acres for the nursery school and 1.5 for the residential parcel.

The project has been before the Zoning Board of Appeals with regard to the remaining nonconformances with regard to setbacks on the residential structure. The new lot line configuration will eliminate the nonconformances on the nursery school parcel.

The lots are currently served by the existing utilities which will remain in effect. They'll remain serviceable as proposed on the new lot configurations, and notes pertaining to the

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LANDS OF POST

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appropriate Zoning Board action have been added to the plans requested by the consultants previously.

Any questions, I'll be glad to entertain them now.

CHAIRMAN EWASUTYN: At this point again we'll turn the meeting over to the public for their questions or comments. Would you please raise your hand and give your name and your address.

(No response.)

CHAIRMAN EWASUTYN: At this time if there's no questions from the public I'll refer to our consultants.

Jerry Canfield, any comments at this point?

MR. CANFIELD: Just a couple clean-up items which I had Faxed to Craig. The latest plan that we were working off of, or I have in my office was dated February 9, 2009 and a clean-up item is the bulk use requirements for the nursery school is two acres and the bulk use requirements of the plan should reflect that.

Additionally, also the final plan must

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bear the seal of the licensed surveyor that performed the work.

MR. MARTI: Yes. That would be the standard.

I did review the issues with regard to the zoning table. I found one other minor error with regard to the rear yard as well which will be incorporated into the plat for final stamping.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines, Drainage Consultant.

MR. HINES: Our previous comments have been addressed. We asked that the applicant's engineer show the septic and water services, and that's been added to the plans, just to make sure that the parcels -- pieces of land weren't transferring ownership of the utilities. So we have no further comments.

CHAIRMAN EWASUTYN: Thank you.

Bryant Cocks, Planning Consultant.

MR. COCKS: I actually didn't have a revised plan to review. Just one comment is that you guys are going to have to waive the requirement for topography on the subdivision plan.

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LANDS OF POST

CHAIRMAN EWASUTYN: Thank you.

Karen Arent, did you look at this?

MS. ARENT: I didn't review it.

CHAIRMAN EWASUTYN: Ken Wersted,
Traffic Consultant.

MR. WERSTED: No comments.

CHAIRMAN EWASUTYN: Comments from the
Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: Nothing.

MR. PROFACI: Nothing, John.

CHAIRMAN EWASUTYN: I'll propose to
open the floor up to the public. Is there anyone
here this evening who has any comments in
reference to the proposed two-lot subdivision for
the Lands of Post?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move to
close the public hearing for the two-lot
subdivision for the Lands of Post.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

I'll have Mike Donnelly, Planning Board
Attorney, explain to the public and to the Board
Members how the Planning Board has the option to
waive topography, and we'll make that part of the
resolution also.

MR. DONNELLY: The subdivision
regulations of the Town have a set of
requirements of what needs to be shown on the
plat. Authority is given to the Planning Board
to waive those required elements but the Board
needs to make a particular finding as to the
reason for doing so, therefore I would propose
for your resolution to state that the reason is

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that this application is barely adjusting the boundary line, nothing is being changed in the field, therefore to show the level of detail that would be intended to assist you in locating the appropriate place for buildings is not necessary under the circumstances presented here.

CHAIRMAN EWASUTYN: And the other conditions of approval that you would make part of the resolution?

MR. DONNELLY: First, my notes are unclear as to whether or not SEQRA was complied with. Was a negative declaration issued on March 6, 2008 when this was last here?

MR. COCKS: Yes, it was.

MR. DONNELLY: I thought so but I just couldn't tell from my notes. SEQRA is taken care of then.

The conditions are the ZBA carried-over condition will incorporate their terms.

My notes had reflected at one point you thought an Army Corp jurisdictional determination was needed. Is that incorrect or correct?

MR. MARTI: I believe it's not needed because there's no change in the surface

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LANDS OF POST

36

treatments. All the existing improvements would remain the same.

MR. DONNELLY: I'll remove that one then.

Beyond that there aren't any financial security requirements.

The plat of course will have to be submitted.

There's no offers of dedication and there are no requirements of parkland fees because no new building parcels are being created.

CHAIRMAN EWASUTYN: Having heard the conditions for final approval for the two-lot subdivision for the Lands of Post, I'd move for that motion.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

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LANDS OF POST

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So

carried.

Thank you.

MR. MARTI: Thank you.

(Time noted: 7:35 p.m.)

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

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

DATED: April 18, 2009

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

----- X
In the Matter of

KRISTOPHER NOTO
(2007-28)

South Plank Road
Section 64; Block 2; Lot 8.2
B Zone

----- X

CONCEPTUAL SITE PLAN

Date: April 2, 2009
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANDREW FEATHERSTON

----- X

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

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KRISTOPHER NOTO

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MS. HAINES: The third item of business we have tonight is Kristopher Noto. It is a conceptual site plan located on South Plank Road, it's in a B Zone and being represented by Andrew Featherston.

MR. FEATHERSTON: Good evening. This project has been before the Board previously where the Board had to direct us to the Zoning Board for three variances, a front yard on Route 52, a front yard on Old South Plank Road, and also the depth of the lot. Those variances have been obtained by the Board.

There was also a motion by the Board that the two-lot -- the single tax lot with the natural subdivision being Old South Plank Road, they are subdivided according to Newburgh Town code. They are subdivided already by that road.

There was also a comment by one of the consultants whether the tax lots had been altered. I'm not certain of that right now, we'd have to find out.

The project is -- the project consists of this portion of the tax lot that's a .65 acre site. It fronts on Route 52 and it also has

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KRISTOPHER NOTO

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frontage on Old South Plank Road.

The bridge that's out on Old South Plank Road, to give you an idea where it is, it's about over here. The strip mall is in this location, Tom Kirwan's office is here, the post office, there's a nail salon here, a gold and silver store on the other side, and the brand new plaza is right here.

We are in the B zoning district as was said. We're in the consolidated water and the crossroads sewer district.

What's being proposed is a 3,000 square foot retail building, twenty parking spaces in the front being accessed off of Route 52. We have a loading area in the rear that's going to be accessed off of Old South Plank Road.

We're proposing subsurface treatment for the stormwater. The whole site slopes down in this direction very mildly with the roadway. There's no big change from the way the road slopes. We're proposing to have the stormwater drain fill a subsurface treatment area and then discharge into a pipe that was put in.

You granted that easement; is that

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KRISTOPHER NOTO

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correct? There was an easement granted here for the plaza for the drainage to get out to the creek. So we'll be utilizing that pipe as well.

I think that's it, Mr. Chairman.

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

MR. GALLI: No additional comment.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I have nothing yet.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, John. Thank you.

CHAIRMAN EWASUTYN: At this point I'll turn to our consultants. Jerry Canfield.

MR. CANFIELD: Looking at the plan conceptually for fire protection, the access roads, they're twenty-four foot entrance ways and driving lanes provided which does meet or exceed the fire code requirements.

The applicant's representative has acknowledged the sprinkler requirement. It's a Town of Newburgh requirement, not building code, with the four-inch fire line.

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KRISTOPHER NOTO

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The only thing I suggest is in future submissions take into account the separation required, which I believe Pat will discuss that, between the sewer line and the water line, the water tap.

MR. FEATHERSTON: Good.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant.

MR. HINES: We have no comments on the concept. I think the reduced size building fits in with the lot as currently proposed.

We are awaiting the engineer's detailed submission after concept to provide additional comment.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: Andrew, would you be able to provide a sidewalk around the building for the delivery area?

MR. FEATHERSTON: When I got your comment we actually looked at that. Something like that.

Can I just show it to the Board, Mr. Chairman?

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KRISTOPHER NOTO

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CHAIRMAN EWASUTYN: Sure.

MR. FEATHERSTON: Your comment said around the building so we put it front and back. I showed it to my client this evening and he didn't see any need for the sidewalk for his -- for his customers or for his use on the site.

MR. COCKS: I meant from here to here.

MR. FEATHERSTON: Okay.

MR. COCKS: Just in case people come walking down this way to go across, the delivery door is locked out and they have to go around. Along the front I don't think it's --

MR. FEATHERSTON: Okay. All right. Great.

MR. COCKS: -- necessary. The only other comment I have is later in the process we're going to need to see architectural drawings with signage details.

This project is also going to have to be forwarded to the Orange County Planning Department, the DOT and the Town of Newburgh Highway Department.

CHAIRMAN EWASUTYN: Thank you, Bryant.

Karen Arent, Landscape Architect.

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KRISTOPHER NOTO

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MS. ARENT: My comments were referring to the older plan. All of my comments are addressed --

CHAIRMAN EWASUTYN: Thank you.

MS. ARENT: -- on the new plan. The new plan addressed all my comments.

MR. FEATHERSTON: Great.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant.

MR. WERSTED: My comment was similar to Bryant's in that we were more concerned about a sidewalk behind the building than the front or back. Not along the front.

MR. FEATHERSTON: Got you. Okay.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to grant conceptual approval for the Kristopher Noto site plan.

MR. PROFACI: So moved.

MR. GALLI: I just have one question. As far as the sprinkler system goes in the building, you weren't going to seek a waiver on that, were you?

MR. FEATHERSTON: No, sir.

MR. GALLI: Jerry, did you mention the

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KRISTOPHER NOTO

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one fire service line that was going over the
water line?

MR. CANFIELD: The sewer line. There's
a sewer line in Old South Plank Road. There's a
separation required. That needs to be taken into
consideration for construction.

MR. FEATHERSTON: Right.

MR. GALLI: That's all, John.

CHAIRMAN EWASUTYN: Thank you. I have
a motion made by Joe Profaci to grant conceptual
site plan approval for Kristopher Noto. Do I
have a second?

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

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KRISTOPHER NOTO

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Andrew, you'll make it a point of getting a copy of the plans to Bryant Cocks so we can refer this to the Orange County Planning Department?

MR. FEATHERSTON: Yes, sir.

CHAIRMAN EWASUTYN: And Bryant, who will manage the DOT?

MR. COCKS: Usually -- I mean when I send out the agency notices I send it out to the DOT also. There's no lead agency notice but I can forward it to them.

CHAIRMAN EWASUTYN: We'll have Bryant Cocks coordinate that. If you would cc us on your transmittal to Daryl Benedict, Town Highway, then we know we completed that also.

MR. FEATHERSTON: Sure. Mr. Chairman, I had one question, if I may, on Bryant's letter. Number 11 says -- I was questioning did you recall if the Board declared lead agency?

CHAIRMAN EWASUTYN: It's under 4,000 square feet.

MR. DONNELLY: It's a Type II action.

MR. FEATHERSTON: Got you. Okay, great. Thank you.

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KRISTOPHER NOTO

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(Time noted: 7:41 p.m.)

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

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

DATED: April 18, 2009

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

----- X
In the Matter of

ORCHARD HILLS
(2003-41)

Route 9W and Oak Street
Section 9; Block 1; Lots 45.21,45.1 & 44.2
R-3 & R-1 Zones

----- X

AMENDED APPROVAL
RESIDENTIAL SITE PLAN

Date: April 2, 2009
Time: 7:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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ORCHARD HILLS

MS. HAINES: The next item on our agenda tonight is Orchard Hills. It's an amended approval for a residential site plan located on Route 9W and Oak Street. It's in an R-3 and an R-1 Zone and being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties. I'm here tonight regarding Orchard Hills. This is a project that's been in front of the Board for some time.

I think Bryant's memo does a really nice job of laying out what we discussed at the work session and what we're really looking at tonight.

This is the original plan. I just wanted to show you this initially with the 22-lot subdivision in the rear. That is no longer proposed. This property owner did not want to proceed. They understand that there's not going to be any connection or further access to the property. In fact, we sent them a certified letter to that effect so that they realize that the land locking of the parcel, with the

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exception of the entry drive, is fifty feet on Oak Street.

What we're currently proposing is 260 units, down from the 271, with a few more multi-family units to replace some of the single-family that it lost.

The front part of the property stays essentially absolutely the same. The only difference is going to be this building which was a 16-unit building, this was 16, 16, 16. These three were 20. This will now be a 20 and a 20 with some minor grading modifications at the rear of the building. It will be designed as a walkout as these were. That's actually the only change that we're proposing up front. Everything stays essentially the same through here until we get right about here and then we start to go up the hill at a little bit different angle.

We had one six-unit building to this loop in and access from what was an upper loop. We straightened that out due to significant costs in that road and additional costs we were going to incur making this connection loop road and emergency access out to Parr Valley. This will

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give them an emergency access out and us an emergency access out. In order to accomplish that we had to divide for two reasons. One, because of that reason and two because of the layout we can amend our drainage study. I think this stays pretty much exactly the same up front with the two ponds that we have.

If you'd like me to go through the comments, or how ever you would like to proceed.

CHAIRMAN EWASUTYN: I'll turn to the Board Members for their comments starting with Frank Galli.

MR. GALLI: On your amenities there, your clubhouse, what's your total square footage of that area?

MR. WINGLOVITZ: Of the clubhouse or --

MR. GALLI: The clubhouse, and I think you have a tot lot there.

MR. WINGLOVITZ: The whole area? I'd say probably an acre.

MR. GALLI: And what do you propose to have in there again?

MR. WINGLOVITZ: An all-purpose court, a tot lot, a pool and a clubhouse.

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ORCHARD HILLS

MR. GALLI: That's going to be constructed in the first phase?

MR. WINGLOVITZ: The Findings has a number -- a specific number of units or COs we can get prior to its completion. I don't know what the number is but it's tied into the Findings Statement. It has prior to such and such a unit we need to have that.

MR. GALLI: This is going to be two parcels, a front parcel and a back parcel?

MR. WINGLOVITZ: Pat noted that because of the subdivision the fact that there's no longer a master HOA is probably the overriding factor. We're going to have to provide an easement agreement across this property to the rear property and bond those improvements for that roadway to ensure that parcel 2 will have access.

MR. GALLI: That's what I was more concerned about. Okay. That's all.

CHAIRMAN EWASUTYN: We will need to have a new application from you for the subdivision.

MR. WINGLOVITZ: The two-lot

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ORCHARD HILLS

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subdivision.

CHAIRMAN EWASUTYN: Speak to Dina as far as the application fees and arrangement for that.

Cliff Browne.

MR. BROWNE: It seems to me that we're going to have to revisit the Findings again with the changes because going into two parcels with phase I, possibly phase II may never get done. I think we have to revisit that, at least to some degree, to know where we're going, look at the amenities and the Findings that we did. We tied that to the way it was designed prior, not our current understanding of the way things are going. Again, we understand that the changes have been driven by the market, and also with market conditions things may never happen. We have to -- I think we're going to have to revisit that, at least to see what we have done in the past is reasonable.

CHAIRMAN EWASUTYN: Mike, can you elaborate on Cliff Browne's concerns and need for an amended Findings Statement?

MR. DONNELLY: I think he hit one of

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the more important ones on the head, and that is while there may not be any increased impacts, the way in which we handled the impacts that were identified through the Findings Statement might need some degree of adjusting or tweaking. You particularly mentioned now that there is not going to be a master HOA, so there's going to be one association that just covers the condominium units?

MR. WINGLOVITZ: One for condos and one for the townhomes. I don't know.

MR. DONNELLY: Are they all going to be able to use the pool and recreational facilities?

MR. WINGLOVITZ: That's a good question.

MR. DONNELLY: If they do then somehow there's going to need to be something that --

MR. WINGLOVITZ: An agreement for that.

MR. DONNELLY: An agreement or something that involves maintenance or contributions. Those have been important issues for the Town, and that's certainly something that needs to be addressed I think in conjunction with the Town Board, and then eventually applied in

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ORCHARD HILLS

some fashion into the Findings. I think we need to look at what is different, because of the subdivision and the difference in concept, and tailor some appropriate Findings to make sure it's dealt with, and that's what Cliff has raised.

MR. BROWNE: Just the comment now. I didn't understand. There will be no overall master HOA?

MR. WINGLOVITZ: We could do it.

MR. WEINBERG: I think we need to relook at that. The initial thoughts that we had were to split it up, but I'm recalling this was a comment that was discussed in depth here. Let me go back and reconsider that. I think that the master HOA would make a lot of sense here and --

MR. BROWNE: If I have a separate HOA then I have no legal anything to come --

MR. DONNELLY: Roadway contributions to maintenance and plowing. You have a number of issues.

MR. WEINBERG: I think that you're correct. I think that's the right way of doing it.

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MR. BROWNE: We'll look for that to be looked at again. That's my major --

CHAIRMAN EWASUTYN: Ken Mennerich.

MR. MENNERICH: What is your current thinking relative to the sewer treatment plant?

MR. WEINBERG: The sewer treatment plant is going to have to be built first. Our plan right now is that phase I, which was the apartment complex, will have to take the burden of building the sewer plant, the traffic improvements and Oak Street up front, and either shortly thereafter when we start phase I or whatever the market tells me it's going to do, phase II will start so that we can start the townhouses which will be for sale.

MR. MENNERICH: The sewer treatment plant all has to be done as part of phase I?

MR. WINGLOVITZ: Absolutely. Consistent with our Findings. We're not changing that.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing additional.

CHAIRMAN EWASUTYN: I have no comments at this time.

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I'll turn to Jerry Canfield, Code Compliance.

MR. CANFIELD: We had spoken about conceptually the rerouting of the roads, which Ross has done a good job with as far as they do meet or exceed the fire code requirements. The secondary access provided emergency access for phase II. Again that does meet or exceed the requirements.

We did talk about a little bit, and it needs to be further discussed, continual maintenance of the access road. There should be language somewhere about that.

I think one of the questions I brought to the Board's attention in the work session was just answered, and that was on phase I. Will phase I with the apartments be entirely built out before phase II starts. The answer was no?

MR. WEINBERG: Not necessarily. It could be built but we plan on being able to start phase II simultaneously with phase I.

MR. CANFIELD: Okay. With that in mind, then I think we need further construction sequencing of the apartment portion of phase I

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ORCHARD HILLS

then. I don't know that we had that on the original plan but that's something that probably should be addressed and submitted.

MR. WINGLOVITZ: We did. Talking more about phase I and phase II, what we're looking for, and Bryant picked it up in the work session, was we'd like to proceed expeditiously on phase I, since that does not change significantly, to a conditional final site plan for that with preliminary on the remainder because we do need to go back and amend our water main improvements and so forth with the Health Department because we'd like to have this available to begin sooner when this is ready.

MR. DONNELLY: You'd have to have your subdivision to do that.

MR. WINGLOVITZ: We have to have our two-lot subdivision.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant.

MR. HINES: Our first comment has to do with the need for the subdivision plan and bonding of the phase I improvements that Ross had mentioned to assure access to phase II and the

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second lot.

Our next comment identifies what they just talked about, they need to go back to the Health Department for water main revisions.

We'll need updated stormwater management plans and reports because of the changes to the size, location and geometry of the ponds.

There are a couple retaining walls that have been added to the plans. Those will need to be put on the detailed design plans.

General note 10 which was regarding the twenty-one lot subdivision in the rear, twenty-two lots in the rear, can be eliminated.

That's all we have on the concept. Otherwise through the work session and reviewing this I think it works okay still.

CHAIRMAN EWASUTYN: Thank you.

Bryant Cocks, Planning Consultant.

MR. COCKS: I have no further comments.

I just wanted to make a note that in 2006 we completed SEQRA and in June of last year we did a SEQRA consistency document. I think that's probably the route we're going to have to

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ORCHARD HILLS

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go with this eventually once all the engineering details are worked out.

CHAIRMAN EWASUTYN: Karen Arent,
Landscape Architect.

MS. ARENT: I have no comments.

CHAIRMAN EWASUTYN: Ken Wersted,
Traffic Consultant.

MR. WERSTED: With the net decrease in the residential units, from a traffic standpoint the trip generation will come down by, you know, a marginal amount. So from a traffic standpoint the Findings are consistent with the current plan.

MR. GALLI: I have one more question.
I'm sorry, I forget your name.

MR. WEINBERG: David Weinberg.

MR. GALLI: Is the front section going to be rental?

MR. WEINBERG: Yes.

MR. GALLI: The back part is strictly for sale, not for rent?

MR. WEINBERG: I'm hedging my bets.
I'm saying they may be rental. They may be condo or rental, the back portion. The front portion

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ORCHARD HILLS

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will be for rent but the second phase with the townhouses, I'd like to sell them but what the reality is is the banks are telling us that I need to be able to rent them as a backup for filing. I need to make it clear to the Board I'm going to leave myself open on the townhouses.

MR. GALLI: That's all. Thank you.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to grant conceptual approval for the amended residential site plan for Orchard Hills.

MR. HINES: And two-lot subdivision.

CHAIRMAN EWASUTYN: And two-lot subdivision.

MR. PROFACI: I'll move again.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: A second by Ken Mennerich. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

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ORCHARD HILLS

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

MR. WINGLOVITZ: Procedurally how do we proceed since this is kind of, I guess, a little different animal than what I'm used to dealing with? We want to move forward on this. I would say the subdivision has to happen. At that point, when we get the subdivision, do we ask for conditional site plan here and preliminary there or -- it's going to take awhile I think to get the engineering and design done to satisfy Pat for this to get preliminary.

MR. DONNELLY: I don't see why you could not, as a Board, grant preliminary site plan approval on an amended basis to the entire project and simultaneously grant final approval to the first phase so that construction could begin there while the applicant pursues amended Health Department approval. I think from a procedural point of view that can be done if everything else is lined up. You do need to get

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ORCHARD HILLS

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the subdivision application in and that will require a public hearing. I think the Planning Board did have a second public hearing on the last go around of amendments. They may wish to hold another hearing either simultaneously or separate from the subdivision hearing. We need to kind of map out --

CHAIRMAN EWASUTYN: We did have that public hearing.

MR. WINGLOVITZ: Yup. Thank you very much.

MR. WEINBERG: Thank you.

CHAIRMAN EWASUTYN: If you would take the time in the course of the next couple of days to summarize in a written letter what you had discussed, your goals and objectives from here on out, so I can circulate to everyone and we'll know where we're going with this process.

MR. WINGLOVITZ: Very good. We can do that. Thank you.

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

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

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

DATED: April 18, 2009

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

----- X

In the Matter of

LANDS OF DISCIGLIO
(2009-02)

19 Shady Lane and 1450 Route 300
Section 63; Block 1; Lots 40 & 22.2
R-3 and B Zones

----- X

CONCEPTUAL SKETCH PLAN

Date: April 2, 2009
Time: 7:56 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DARREN DOCE

----- X

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

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LANDS OF DISCIGLIO

MS. HAINES: The last item we have tonight is the lands of Disciglio. It's a conceptual sketch plan located at 19 Shady Lane and 1450 Route 300. It's in an R-3 and B Zone and being represented by Vincent Doce.

MR. DARREN DOCE: Mr. Disciglio who owns the lot off of Shady Lane outlined in yellow would like to obtain this shaded pie-shaped portion.

MR. BROWNE: Could you introduce yourself?

MR. DARREN DOCE: I'm Darren Doce.

MR. BROWNE: Darren Doce. Thank you.

MR. DARREN DOCE: Would like to obtain this shaded pie-shaped portion from Mr. Warren who owns the commercial project just up the road on Union Avenue. It's a relatively unusable piece of the property for Mr. Warren due to its location and shape, and it would benefit Mr. Disciglio by providing a wooded buffer between his house and the commercial project that he would be in control of.

All the bulk requirements are met.

I've added the proposed building that

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LANDS OF DISCIGLIO

hasn't been built yet. It was approved but it hasn't been built. The fifteen-foot buffer that's now required between the R-3 Zone and B Zone. That's basically it.

CHAIRMAN EWASUTYN: Comments from the Board Members. Frank Galli?

MR. GALLI: What's the purpose of transferring that lot between the two owners? I mean besides blocking someone's view.

MR. DARREN DOCE: Well it gives -- it benefits -- he can control now this piece. He won't have to see the commercial project.

MR. GALLI: Is there a drainage problem in there or something? Is that a gully? Is there a problem with the drainage?

MR. DARREN DOCE: Not that I'm aware of, no.

MR. GALLI: The Town is doing some work in that area for drainage problems.

MR. DARREN DOCE: I'm not aware that the Town is doing work in that area.

MR. GALLI: That's all I had, John.

MR. HINES: I guess I'll jump in here. I've been out there previously with Jim Osborne,

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the Town Engineer, regarding the discharge from the Lynn Warren detention pond facility which discharges to a level spreader and then crosses onto this property which kind of -- it re-channels the water back to a drainage course towards that house.

I believe that your client has raised an issue regarding that drainage in the past which resulted in a couple meetings out there with Town officials and the potential for tying in this project, Lynn Warren's project, and the adjoining project into a proposed drainage system down Shady Lane. I think Mr. Warren should think hard about retaining a drainage easement across this parcel because of the issue regarding the discharge of his drainage and the potential for the Town to want to pick that drainage up and take it down Shady Lane. The residential parcel has definitely identified concerns in the past regarding the discharge of stormwater from the commercial B Zone property.

MR. DARREN DOCE: Mr. Disciglio?

MR. HINES: Yeah. And the way the existing topography is, it re-channels that water

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back into Disciglio's parcel. The level spreader functions fine and discharges it but because of the existing grading he has contacted the Town in the past regarding that discharge. I assumed that this was to alleviate that drainage concern, or at least negotiate fixing that, but the Town does have an interest with the adjoining parcel, the Pomarico parcel, Vantage Construction, --

MR. DARREN DOCE: This parcel.

MR. HINES: -- coming up with a mutually beneficial drainage system to Shady Lane which probably would involve that green shaded portion subject to this lot line. I believe Mr. Warren is aware of that. He may not have conveyed that to you but I think you should talk to him. He may lose the ability of resolving that drainage issue if he loses control of that parcel without benefit of at least an easement. Certainly a drainage easement may impact the residential property's ability to keep the vegetation there if in fact that project does come.

I've been out there a couple times in the last couple of years with the drainage

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concerns there and talking with the Town and Jim Osborne regarding that. I don't know where it's going but I think you should probably take another look at that, talk to Jim Osborne and figure out if this will benefit Mr. Warren or it may hamper his ability to clean that up.

MR. DARREN DOCE: I'll mention it to Mr. Warren.

MR. GALLI: John, I have a question on that.

Pat, what happens if the easement isn't granted? What happens with the Town going through there to get what they need to get?

MR. HINES: I don't think we'll see it again until the adjoining parcel comes back in for development. They were before the Board. They have an application before the Planning Board. Craig Marti I believe is representing that project. The idea was to take his runoff, Lynn Warren's discharge pipe, and take it down Shady Lane to the stream. The Town has a drainage issue on Shady Lane already, and I think it's kind of exacerbated by the discharge from the commercial properties. They're looking for a

1 way to clean that up. I know that that
2 residential parcel has been contacting the Town
3 on several occasions regarding that flow from
4 Lynn Warren. I was surprised to see this
5 actually come in.
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7 MR. GALLI: So the burden would be put
8 on the little brick house property instead of --

9 MR. HINES: No. I think they both need
10 to. The intent is to pick up the discharge from
11 the stormwater pond on Lynn Warren's and whatever
12 stormwater facility is located on the brick house
13 property, as you called it, and connect that to a
14 proposed Town improvement or a Town joint
15 improvement between the Town and the commercial
16 properties and run it down Shady Lane to the
17 stream.

18 MR. DONNELLY: What Frank is getting at
19 may be correct. If the subdivision goes through
20 without there being a solution in place, this
21 problem and its cure ends up becoming Mr.
22 Disciglio's rather than Mr. Warren's, and I don't
23 know that that's what the parties intend.

24 MR. DARREN DOCE: I'll talk it over
25 with both of them and see if they want to --

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LANDS OF DISCIGLIO

MR. HINES: I think it just warrants another look.

MR. VINCENT DOCE: You're saying the benefit would accrue to Lynn Warren. It doesn't affect anyone else there other than the two parties to this transaction; is that correct?

MR. HINES: Yes. And the adjoining property. Pomarico's property.

MR. VINCENT DOCE: Well if they are downstream --

MR. HINES: They're not downstream. The Disciglios are downstream. The grade on the adjoining property is fairly level across.

MR. VINCENT DOCE: You're saying that water is going to go on the Disciglio parcel? Is that what your fear is?

MR. HINES: Right now the water from Lynn Warren's is going onto Disciglio. The adjoining parcel doesn't have their stormwater plan developed but they have an idea of where to discharge it and they're working with the Town to come up with a Shady Lane drainage improvement.

MR. VINCENT DOCE: But my question is does that adjacent subdivision need the

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cooperation of this pie-shaped parcel?

MR. HINES: Yes. Potentially. Lynn Warren needs the pie-shaped parcel to pick up his drainage and get it into whatever improvement.

MR. VINCENT DOCE: That's an intra-party.

MR. DONNELLY: But it may be the best solution for all three properties to use that area to carry some formalized drainage to the new Shady Lane improvements.

MR. HINES: The resident parcel was the catalyst of me being out there talking about this drainage in the first place because of their contacting Jim Osborne regarding the stormwater runoff.

MR. VINCENT DOCE: What you're suggesting is that there be a discussion with Lynn Warren --

MR. HINES: Yes.

MR. VINCENT DOCE: -- and Disciglio to see what they want to do and if they are satisfied with the way it is now?

MR. HINES: I assume if Disciglio is okay now with the runoff situation that he has

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LANDS OF DISCIGLIO

been contacting the Town about, it may be a non-issue. I think someone needs to take a look at it.

MR. VINCENT DOCE: It is encapsulated by a discussion between Disciglio and Lynn Warren.

MR. HINES: Yeah. It has involved the Town in the past.

MR. VINCENT DOCE: But if they say it's fine --

MR. HINES: That's right. If Disciglio is happy, I would be surprised because there were numerous contacts to the Town in the past regarding that.

MR. VINCENT DOCE: He has never mentioned it to us at any time.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: I just had a couple comments. Just to show the third office building on the resubmission.

MR. DARREN DOCE: Right.

MR. COCKS: I see it there. It wasn't on the map that we had.

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Also, just to add a fifteen-foot buffer strip. The law changed in between now and when Lynn Warren's building was improved. It looks like you guys have the area anyway, it's basically showing the line on there.

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

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm a little confused on -- I don't have a problem with the transfer of the property per se except for the knowledge of the drainage issue. That to me presents an issue. I would like to see some kind of sign off or something that all the parties acknowledge at least what the deal is there, that no party is getting blind sided here.

MR. VINCENT DOCE: I thought it was clarified there's three.

MR. BROWNE: There's three. There's Lynn, your client and the guy whoever it is towards me.

CHAIRMAN EWASUTYN: Michael Pomarico.

MR. VINCENT DOCE: He would have to

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LANDS OF DISCIGLIO

secure an easement across.

MR. BROWNE: My understanding is --

MR. DARREN DOCE: The Pomarico parcel
owns --

MR. HINES: The paper street.

MR. DARREN DOCE: -- up to the paper
street. They wouldn't have to interface with us.

MR. BROWNE: What was the deal with
that as far as Pomarico?

MR. HINES: I want to check the
topography. We may need the lower point, the
lower elevation in that pie-shaped area to tie it
all together. I didn't relook at the Pomarico
parcel.

MR. DARREN DOCE: I think it just all
flows in this direction.

MR. BROWNE: So Pomarico really
wouldn't be affected?

MR. HINES: He may be. I don't have
the topo there. I haven't looked at it in
probably a year-and-a-half I haven't been out
there.

MR. DONNELLY: We can't require either
of these lot owners to handle it, but I think the

1 point is a good one. It may be that the best
2 solution for everybody is also the best solution
3 for each of them. While most important is the
4 two property owners that are now before us, if
5 there's a way to make it all work for the Town,
6 for the adjoining parcel, Lynn Warren and
7 Disciglio, talk about it and report back. That's
8 the suggestion.

10 MR. BROWNE: Another thing, John. Do
11 we need topos on this?

12 CHAIRMAN EWASUTYN: You do have topos
13 from the original Lynn Warren application.

14 MR. HINES: If it can be resolved with
15 an agreement and everyone is not concerned any
16 more, I'm okay with it, too.

17 MR. MENNERICH: Usually when there's a
18 lot line change like this there's a swap of
19 property between the two owners, and in this case
20 I'm kind of wondering myself what does Lynn
21 Warren get out of doing this?

22 MR. VINCENT DOCE: Well the first
23 reason was that this green area is essentially
24 the elevation of this house. It's unusable land
25 to Lynn Warren. He has really no way of using

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LANDS OF DISCIGLIO

that is number one.

Number two, there are very sizable attractive trees. They may be thirty inch trees in there, which Mr. Disciglio was interested in seeing that they be preserved. He didn't want those trees taken down.

The third thing is it just adds another buffer to anything happening there, particularly taking down of those trees. So for all intensive purposes, elevation wise this green area really goes with that piece of property because the drop off is right there and then it levels out and then there's a slight drop off I believe at a stonewall in here maybe, a drop off less than this if I recall.

What Lynn Warren gets out of it, I don't know about any problems of drainage but I do know Lynn Warren and Mr. Disciglio are friends and they came together and wanted this done. Whether there's going to be any change of monies I did not ask, or none of us asked. Lynn Warren is very much in favor of doing this and he indicated to me it was to accommodate Joe Disciglio.

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LANDS OF DISCIGLIO

CHAIRMAN EWASUTYN: Any comments from Board Members?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: I'll move for a motion to declare a negative declaration for the two-lot subdivision for Disciglio and set it for the 16th, Dina, of April.

MR. PROFACI: So moved.

MS. HAINES: We already have two on the 16th. Do you want to go to the next one in May?

CHAIRMAN EWASUTYN: I think we already set it for the 16th.

MS. HAINES: For the 16th, yes. April 16th.

CHAIRMAN EWASUTYN: Thank you.

MS. HAINES: I apologize.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: A second by Ken Mennerich. Any discussion of the motion?

MR. GALLI: Is this for the public hearing?

CHAIRMAN EWASUTYN: Correct.

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LANDS OF DISCIGLIO

There being no discussion, I'll move
for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

Thank you.

MR. VINCENT DOCE: Did I understand it
to be said that we would not need the contours
because it's inconsequential?

CHAIRMAN EWASUTYN: I believe you have
the original.

MR. DONNELLY: Just put them on there
if they are not there.

MR. MENNERICH: Do you feel that by the
time of the public hearing you'll have some
resolution between the parties?

MR. VINCENT DOCE: Oh, yes. I'll talk
to both Lynn Warren and Joe Disciglio and make
sure they're on the same page, and I'll suggest
to them that they might want to talk to their
neighbor.

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LANDS OF DISCIGLIO

CHAIRMAN EWASUTYN: Give us something in writing, that way it's for the record, that way if the Town ever questions it we can say they were in agreement.

MR. MENNERICH: Can we ask Pat to check with Jim Osborne just so the loop is closed on the drainage issue?

MR. HINES: I will.

MR. VINCENT DOCE: Thank you very much.

(Time noted: 8:12 p.m.)

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

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

DATED: April 18, 2009

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

----- X

In the Matter of

TRINITY SQUARE SITE PLAN
(2006-53)

Letter from Darren Doce Requesting
a 180-Day Extension

----- X

BOARD BUSINESS

Date: April 2, 2009
Time: 8:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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TRINITY SQUARE SITE PLAN

CHAIRMAN EWASUTYN: We just have a few items of Board business and we'll be finished for the evening.

MS. HAINES: The first item we have is the Trinity Square Site Plan. We received a letter from Darren Doce dated March 16, 2009 requesting a one-year extension. The current approval expires July 10, 2009. With the extension the approval will be valid through July 10, 2010.

CHAIRMAN EWASUTYN: Any comments from the Board Members in reference to this action to grant a 180-day extension for the Trinity Square Site Plan?

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for this approval.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

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TRINITY SQUARE SITE PLAN

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

(Time noted: 8:14 p.m.)

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

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Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
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DATED: April 18, 2009

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

----- X
In the Matter of

STEWART AVENUE SENIOR HOUSING
(1997-07)

Letter from A.J. Coppola Requesting to
Convert a Second-Floor Lounge into a
Caretaker's Apartment

----- X

BOARD BUSINESS

Date: April 2, 2009
Time: 8:14 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

2 MS. HAINES: We received a letter from
3 A.J. Coppola dated March 26, 2009 regarding the
4 Stewart Avenue Senior Housing. He would like to
5 add an apartment for an on-site caretaker by
6 converting the second floor lounge to that
7 apartment.

8 CHAIRMAN EWASUTYN: I'll move for a
9 motion to have Jerry Canfield coordinate this
10 request with A.J. Coppola and see what would be
11 necessary as far as any referrals to Jim Osborne
12 to get a referral to the City of Newburgh
13 possibly for the need for a sewer approval and
14 work that through with A.J. Coppola and Harry
15 Lipstein and get back to us on this.

16 MR. MENNERICH: So moved.

17 MR. GALLI: Second.

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

21 MR. BROWNE: Yes, John. I think we
22 should probably note this would be the only
23 outstanding thing from our Board's perspective
24 that would be an issue for that.

25 CHAIRMAN EWASUTYN: Okay. We'll make

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note of that, that the Board will be in need of,
if necessary, a City approval letter for an
additional flow acceptance if that was determined
by Jerry Canfield in his research. We would need
that before we can act to amend the original site
plan and the resolution associated with it.

Correct, Mike?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: We can't grant any
approvals that require a City flow acceptance
letter without receiving that first.

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

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DATED: April 18, 2009

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

----- X
In the Matter of

THE MARKETPLACE SUBDIVISION
(2007-35)

Discussion by Michael H. Donnelly, Esq.
Notice of Appeal

----- X

BOARD BUSINESS

Date: April 2, 2009
Time: 8:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO
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THE MARKETPLACE SUBDIVISION

MS. HAINES: The next thing we have is Mike Donnelly discussing the notice of appeal for The Marketplace Subdivision.

MR. DONNELLY: As I noted briefly during work session, this is the last of the various lawsuits that were brought in regard to The Marketplace project. This one related to the subdivision.

The Planning Board was successful in its defense of that Article 78 and they then filed a notice of appeal. I can not tell you whether they will perfect that appeal. They have six months to do so. As soon as they do I will let you know.

CHAIRMAN EWASUTYN: Thank you.

I'll move for a motion that we close the Planning Board meeting of the 2nd of April.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

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THE MARKETPLACE SUBDIVISION

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

I'll take this opportunity to wish
everyone a happy Easter.

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

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

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DATED: April 18, 2009