

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

----- X

In the Matter of

LANDS OF HAMMOND
(2007-27)

North side of Cronk Road
Section 1; Block 1; Lot 63
AR Zone

----- X

AMENDED SUBDIVISION

Date: May 7, 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
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CRAIG MARTI

----- X

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of May 7, 2009.

At this time I'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.

MR. FOGARTY: Here.

MR. WARD: Here.

CHAIRMAN EWASUTYN: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Newburgh.

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

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

MS. HAINES: Thank you.

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

MR. PROFACI: Join me in saluting the
flag.

(Pledge of Allegiance.)

MR. PROFACI: Please turn off your cell
phones.

MS. HAINES: The first item on the
agenda tonight is the Lands of Hammond. It's
here for an amended subdivision. It's located on
the north side of Cronk Road in an AR zone. It's
being represented by Craig Marti.

MR. MARTI: Yes. Thank you, Mr.
Chairman, the Board. The last time this
particular applicant was before the Board we
received preliminary approval on a proposed
fifteen-lot subdivision which consisted of
thirteen new residential lots, subdivision --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

separation of a roughly eight-acre parcel which would contain the existing mixed residential uses on a roughly eight-and-a-half acre parcel and then another residual parcel which is not for development at this time.

The current request is to phase the project such that the larger residual forty-five acre parcel and the eight-and-a-half acre parcel would be broken off from the subdivision in a manner of a simple minor subdivision of three lots whereby the forty-five acre lot will retain access to Cronk Road, the eight-and-a-half acre parcel will remain with current access. The road frontage requirements and the access agreements to lot 3 would be over the existing right-of-way from Cronk Road and the proposed Town road.

Concurrent with that plan or subsequent to the filing of the three-lot subdivision we would then seek to retain the preliminary approval, and based on the prior reviews of this Board go forward with the second phase of the thirteen-lot subdivision of the remaining parcel. This would allow the owner of the parcel to separate his interest and his residence.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Actually, he currently lives in the existing residence on the property, plans to stay there for the time being, and he would like to separate his interest from those of the remaining part of the subdivision and not get bogged down with the review and build-out phases such that his parcel would be encumbered by the subdivision at this time.

So to summarize, we're basically looking for clarification on the administrative steps we would have to take to complete and finalize the minor subdivision of three lots and then retain the prior review and preliminary approval status of what would then be submitted as a thirteen-lot subdivision to Orange County based on the preliminary review of this Board for final approval at a later time.

CHAIRMAN EWASUTYN: Mike, can you give us the clarification that Craig Marti is requesting that he receive tonight?

MR. DONNELLY: Is what you show there, Craig, the same lot layout as what you received preliminary approval for --

MR. MARTI: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

MR. DONNELLY: -- or has that changed?

MR. MARTI: There's no change in the lot layout. The thought is to get the structure approved and the roadway in order to serve the existing lots. The lot lines and configurations, proposed utilities and improvements are exactly the same with this proposal as the last one.

MR. DONNELLY: So you want to hold on to your preliminary approval for the fifteen lots and you would like to get final approval for three of them?

MR. MARTI: Yes. We would like to have final approval for three and then modify the preliminary approval for the thirteen which would then compose the major subdivision that would need County approval.

MR. DONNELLY: What are you going to do about the roadway? Is it going to be bonded?

MR. MARTI: Yes. The roadway -- they're currently under construction. As opposed to building it versus bonding it, we would either complete the construction of that or bond that.

MR. DONNELLY: Bond the top coat?

MR. MARTI: Bond the major subdivision.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

MR. HINES: I think the question is the minor subdivision, how does the lot have access? The rear lot, lot 3.

MR. MARTI: That would have access -- the current access road to the farmhouse property and multi-family -- the multiple residence on the existing lot serves two separate existing lots and the farmhouse property, and the access to the third lot would be off the end of that right-of-way as it's currently utilized. We can clarify that with an agreement if necessary, or whatever Mike would require.

MR. DONNELLY: You're going to need the Town road, otherwise it's going to need 280-A relief.

MR. MARTI: It's proposed to be built and dedicated.

MR. DONNELLY: You're going to offer it for dedication and either it will be completed or bonding will be in place before the map is filed.

MR. MARTI: Yes.

MR. HINES: Because it's --

MR. MARTI: Before the major subdivision.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

MR. DONNELLY: You couldn't -- lot 3 then wouldn't have any access to a public -- you could do it if you got 280-A relief from the Zoning Board.

MR. MARTI: So we have to clarify -- okay.

MR. DONNELLY: Either you have to build or bond the roadway before this three-lot map is filed, or somehow obtain 280-A relief from the Zoning Board, otherwise you're creating a parcel that has no frontage on a Town road.

MR. HINES: It's also my understanding the road may have been substantially completed.

MR. MARTI: It's substantially completed to approximately this location here. We came back through and this begins to narrow. The curbing and drainage are in place for its entirety. It's basically substantially complete to approximately this location.

MR. HINES: I'm just wondering if you don't redraw that to make that the Town road initially and then continue to the next phase and only bond the top or something.

MR. MARTI: A portion we can do that.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

It would be the remaining portion since the binder is in place. We could bond the top course, redraw the end of the cul-de-sac.

MR. HINES: I think that would be a good way to go.

MR. DONNELLY: I think that would work.

CHAIRMAN EWASUTYN: So we have a clarification.

Any outstanding drainage issues, Pat Hines.

MR. HINES: Under this scheme it doesn't need any drainage improvements. We had previously reviewed the drainage on the entire site. There are water quality improvements proposed but the majority of the site drains to the large wetland area so there's not a water quantity issue there because there's a large DEC wetland on the balance of the parcel there. That will be reviewed. We've already done it once, and as the project continues we'll confirm that.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: Just two small things. One is just providing a signed and sealed survey

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

sheet and engineered drawings for the plan.

The second is just payment of parkland fees for when this is approved. I think Mike said you're going to have to pay two lots, the first two lots, now. The ones that are existing are not going to have to pay. Later on with the final approval you'll have to pay the rest of the parkland fees.

MR. MARTI: That's my understanding. We'll pay the parkland fees on the two new lots and then pay the additional parkland fees when we go to the next twelve more.

MR. COCKS: That was all.

CHAIRMAN EWASUTYN: Jerry Canfield, any questions?

MR. CANFIELD: One question we had discussed during the work session. Craig, the lot up to the upper left-hand corner, next over, is that an existing lot? Did you indicate that?

MR. MARTI: Yes, that's an existing lot. When this project -- in its initial conception this lot was configured such that these were rectangular lots. The first project we did was a simple lot line change to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

11

reconfigure the lot to accommodate the proposed roadway alignment. That lot was -- that lot line change was completed and filed long before the initial subdivision sketch plan was submitted and that lot has now been built out as a separate lot. It's separate ownership at this time.

MR. DONNELLY: You should show it.

MR. MARTI: Yes, I will show that.

MR. CANFIELD: Thank you. That's all I had.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: Jerry just asked him the question I had about that. That line up there, if that was part of lot 3.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No. I assume before we do any voting we're going to have Mike --

MR. DONNELLY: I think it's going to need a new public hearing. They'll have to submit the map with a shortened cul-de-sac. I don't think you can take action on it.

CHAIRMAN EWASUTYN: So we then have to make a SEQRA determination tonight and then

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

schedule it for a public hearing.

MR. HINES: I think we did SEQRA for the entire parcel.

MR. DONNELLY: I think we should at least examine whether there's any new environmental issues created. If there's none I think you can reaffirm the negative declaration you issued back in March of 2007.

CHAIRMAN EWASUTYN: We still have to schedule a public hearing.

MR. DONNELLY: I believe there's enough of a change here that I think you should.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No questions.

CHAIRMAN EWASUTYN: I'll turn to our consultants. Your advice as to SEQRA. As Mike Donnelly said, can we reconfirm our last SEQRA determination that there --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

MR. HINES: I concur with that. We looked at the whole project before and this is less of an impact than it would have been. Obviously it's kind of a phase I of that. We're okay with it.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I think a consistency document would be the right way to go.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to reconfirm our SEQRA determination for the Lands of Hammond.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: Thank you.

MR. HINES: We want to be careful that it is for the entire subdivision. They don't want to give up their SEQRA determination on the fifteen-lot --

MR. DONNELLY: We're just reaffirming the SEQRA consistency determination.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. Do I have a second?

MR. MENNERICH: Second.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

(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.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

I think -- let's see. Dina, is it the 6th of June is our next -- our first meeting in June?

MS. HAINES: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion to set the 6th of June for a public hearing for the Lands of Hammond.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

MR. GALLI: John, what was the purpose

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

15

again of the second public hearing?

CHAIRMAN EWASUTYN: Mike feels there's
-- Mike, you speak.

MR. DONNELLY: Normally if there are
changes to a subdivision that make it an amended
subdivision to any significant degree you should
have another public hearing. I know we're just
cutting fifteen into three now. I suppose if you
take the position that it's substantially the
same -- he's got to revise the plan anyway, put a
new cul-de-sac in there. I was recommending in
the abundance of caution you reschedule it for a
hearing to make sure the public has a chance to
be heard again.

MR. GALLI: They're going to be looking
at the same thing they looked at last time.

MR. DONNELLY: I think you could take
the position it doesn't need a hearing because
you held one before, but I don't think you can
take action until you have a plan before you.

MR. GALLI: I realize that part about
the plan before me. Personally I don't --

CHAIRMAN EWASUTYN: Do you want me to
poll the Board Members?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

MR. DONNELLY: Legally speaking you can do either one.

MR. GALLI: I'll say no.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No.

CHAIRMAN EWASUTYN: Okay. Then I'll move to rescind the motion to have a public hearing for the Lands of Hammond.

Their revised plans, do we -- how do you want to manage that? Do they want revised plans? Do we want the applicant to appear before us at a later meeting with revised plans and act on the approval then or do we want the revised plans to go to our consultants, Bryant Cocks and Pat Hines, for them to sign off in letter form, then act under Board Business to approve the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

revised plans? I'll look for suggestions from the Board.

MR. GALLI: Can Pat and Bryant do it that way? Is there a significant change where we have to re-look at them all?

MR. HINES: I don't know where the cul-de-sac will end up and I don't know the condition of the roadway. I think it's just going to shorten the cul-de-sac.

I'm okay with that as long as the Board is.

MR. DONNELLY: Get a sign-off letter from Pat that shows a shortened and appropriately relocated cul-de-sac.

MR. GALLI: If that's the only thing that's changing, I don't have a problem with that.

MR. MARTI: The temporary nature of the short cul-de-sac.

CHAIRMAN EWASUTYN: Are the other Board Members satisfied with that procedure?

MR. BROWNE: Yes.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF HAMMOND

CHAIRMAN EWASUTYN: Then I'll move for a motion to have the revised plans forwarded to Bryant Cocks, our Planning Consultant, and Pat Hines, our Drainage Consultant, and to wait on receiving from them a letter of satisfaction at which point the Lands of Hammond will be scheduled for Board Business for final action.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: A second by Tom Fogarty?

MR. FOGARTY: Yes.

CHAIRMAN EWASUTYN: A second by Tom. 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.

MR. FOGARTY: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. WARD: Aye.

CHAIRMAN EWASUTYN: So carried.

MR. MARTI: Thank you.

(Time noted: 7:14 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: May 24, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

----- X
In the Matter of

LANDS OF RUTH CAMPBELL
(2009-03)

Fostertown Road
Section 17; Block 2; Lot 23.13
AR Zone

----- X

CONCEPTUAL SKETCH PLAN

Date: May 7, 2009
Time: 7:15 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
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: DARREN DOCE

----- X

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF RUTH CAMPBELL

MS. HAINES: The next project we have tonight is the Lands of Ruth Campbell. It is a conceptual sketch plan on a two-lot subdivision located on Fostertown Road in an AR Zone, being represented by Darren Doce.

MR. DOCE: Hello. My name is Darren Doce, I'm representing Mrs. Campbell. She's proposing a two-lot subdivision of a thirty-five acre parcel. It's located on Fostertown Road which is a County road. It also borders North Fostertown Road on its east side.

Lot number 1 shaded in the orange will be ten acres. Lot 2, which is outlined in the blue, will be twenty-four acres approximately.

Gidneytown Creek borders the site on the east. There's also DEC wetland with a hundred foot buffer shown in the green and the yellow respectively along the creek.

We're proposing access off of Fostertown Road with a common driveway opposite Summit Ridge Road.

I would also like to add that Mrs. Campbell is in the process of preparing her will so she's trying to accomplish this subdivision to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

split the parcel and leave it to two of her heirs. She doesn't propose developing the sites at this time. They're not going to be sold.

We do show proposed house locations and septic and well designs just to demonstrate that there is a buildable building site on each lot.

I'll just turn it back over to the Board.

CHAIRMAN EWASUTYN: Thank you.

Comments from our consultants. Jerry Canfield.

MR. CANFIELD: Yes. Darren, I didn't get to Fax you these comments. I had a problem with your Fax number --

MR. DOCE: Okay.

MR. CANFIELD: -- that's why you don't have this. Bryant Cocks had a question with respect to the flood plain development permit if needed, and the answer to that question is no, you have delineated the flood zone, there's no disturbance in that area, therefore a permit is not required.

One point of information, which Pat Hines has picked up also, on your inlay you depict what panel you use to delineate the flood

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

zone. That's the old panels, 1984, 85. There are new maps out. You may want to just check. It's my understanding that they have expanded some of the zones in the Town. I'm not certain that this is one of them but you may want to just check.

MR. DOCE: I pulled it up. I'll get that to Dan. I'm doing this project in conjunction with Dan Yanosh who prepared the first sheet. He's the surveyor on this project. I pulled up the website and the new flood plain is basically going to run along the creek in that area. So I'll get him that information so he can add it to the plans.

MR. CANFIELD: Very good. That's all I have, John.

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

MR. HINES: The flood plain issue we just talked about.

Noting the driveway is to a County road. As Bryant mentioned in his comments, it will need approval.

An access and maintenance agreement for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF RUTH CAMPBELL

24

Mike Donnelly to review.

We reviewed the wells and septic systems and they are designed per the guideline. No problems.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: We reviewed these two lots and neither of the lots are going to need variances.

Everyone mentioned it's on a County road so it's one less action under SEQRA.

The County DPW is an involved agency so we recommend the Planning Board declare their intent for lead agency and forwarding this to the Orange County Planning Department.

CHAIRMAN EWASUTYN: Thank you. I'll turn to the Board Members. Frank Galli?

MR. GALLI: Not at this time.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF RUTH CAMPBELL

MR. FOGARTY: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: I'll move for a motion to grant conceptual approval for the two-lot subdivision and to refer -- declare our intent for lead agency and to refer it on to the Orange County Planning Department and the Orange County Department of Public Works.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. 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.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Mike, at this point, since we're just declaring our intent for lead agency, we can't make a SEQRA determination?

MR. DONNELLY: No. You'll have to wait the thirty days.

CHAIRMAN EWASUTYN: We couldn't set it for a public hearing. At this point whatever revisions have to be made, we'll schedule this for the 6th of June. That will give us just about a thirty-day timeframe.

MS. HAINES: That's the 4th.

CHAIRMAN EWASUTYN: That's the 4th. We'll reschedule this for the 4th of June. If you could work with Bryant to see that we get a determination from the Orange County Planning Department between now and the 4th so then we can take action on the 4th.

MR. DOCE: Okay.

CHAIRMAN EWASUTYN: Dina, would you make a note we'll schedule Campbell for the 4th of June?

MS. HAINES: Yes.

(Time noted: 7:20 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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: May 24, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

----- X
In the Matter of

PHARMACY & BANK
(2006-57)

Modification of the Approved Plans

----- X

BOARD BUSINESS

Date: May 7, 2009
Time: 7:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOSH BEYER

----- X

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: For the record, this is -- I'll have you introduce yourself for the record.

MR. BEYER: Josh Beyer with the Sembler Company.

CHAIRMAN EWASUTYN: Thank you.

MR. BEYER: Unfortunately I don't have a board to put up on such short notice. I was going to address the Board. I don't have it but I hope everybody got a copy of both Ken Wersted's letter and Mike Donnelly's letter regarding our project. It's the Walgreen's and Key Bank project on North Plank Road that's under construction. John asked me to come and address you to let you know what we're trying to accomplish here. Many of you were on the Board at the time the plan was approved.

Our project along with Orange County Trust, who is immediately to the south of us, hasn't started construction yet. Both of our projects were required to do an improvement to Noel Drive. It was a minor widening on the north side of the road to better align it with Gidney across Plank Road. When we got into construction

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

we got with Central Hudson about moving a pole that had to be relocated at the corner -- on our side of the corner there and we got some estimates early on that were in the \$30,000 to \$50,000 range, got to the nitty-gritty and asked them to relocate the pole and the cost had escalated dramatically. It's \$250,000 to relocate a pole. Neither our client nor Orange County Trust really had anticipated that. So we started looking at what our options might be to better deal with that.

We worked with Ken to come up with a better design to accomplish the same thing, which is to align Noel Drive along with Gidney across Plank Road. I think those sketches were a part of Ken's letter that he had written to the Board. It was presented. Effectively instead of doing widening on the north side of the road we want to widen the south side to avoid those conflicts. That's the sketch you would have in front of you.

So I think what I'd like to hear is what kind of procedure we want to go through to accomplish that. What I'm hearing is an amended site plan application seems to be the consistent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

31

process to go through. So that's kind of why I'm here, to kind of explain that to you and get some feedback from you as to which direction we need to go next, what the next step is.

CHAIRMAN EWASUTYN: You've met -- we'll start with Jerry Canfield and we'll have Mike Donnelly summarize it. You had the opportunity of meeting with Jerry today --

MR. BEYER: Yes, we did.

CHAIRMAN EWASUTYN: -- and you discussed the phasing plan we'll call it.

MR. BEYER: Yes, sir.

CHAIRMAN EWASUTYN: And you understand the approval of the phasing plan. What was your understanding of the phasing plan, what improvements had to be made as part of phase I, and are you following that or on track you believe?

MR. BEYER: Yes. The plans that were approved with the resolution show a phase I and phase II site plan. They fairly depict with a heavy dashed line what is in phase I and what is in phase II.

Phase I is the majority of the on-site

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

improvements with the exception -- if you've been by the site you see the Key Bank is still operating at the corner. Everything kind of surrounding that existing bank there. In addition to that we did some drainage improvements on Gidney, going down Gidney. We upgraded an existing pipe from an eighteen to twenty-four or fifteen to twenty-four. We made some improvements to that drainage system. That work has been complete. That was work in phase I. The intent was to do all of that in phase I, move Key Bank into their new building, have them open and then demolish the existing branch that's out there today, finish the on-site work that's where their existing bank is today and do that Noel Drive improvement in phase II. The Noel Drive improvement along with -- obviously everything sitting where the existing building is today are really a challenge from a constructability standpoint because of the conflicts that exist with having an operating branch bank there today. That was our understanding. So once Key Bank moved in, we did the demolition, the rest of the on-site

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

improvements and Noel Drive improvements, we're one hundred percent with phase I and phase II, at that point Walgreen's would be able to get a CO and open, and we would have both tenants open at that time. That was my understanding. That's what Jerry and I discussed with Tilford this afternoon.

CHAIRMAN EWASUTYN: Jerry, would you like to add to that or comment on that?

MR. CANFIELD: During the work session we discussed in length all of our understanding of the resolution and the phasing plan. The Planning Board and its Members have discussed their desires, or basically what their understanding was as it was, which was the same as my initial response, that all the site improvements were to be completed prior to issuance of a CO. Perhaps Mike can discuss that a little further.

I did explain to the Board my understanding of the reasoning why it must be done this way. You're asking for a CO for Key Bank.

We spent most of the time in the work

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

session discussing this very issue. We really didn't get into the mechanics of the relocation and the comments from the consultants regarding the relocation of the road.

Perhaps you can better explain to the Board, if you would, the reasoning why you have to move Key Bank at this point in time rather than completing all the improvements and then moving them.

MR. BEYER: Okay, I will do that. I first would like to say I think if you went back and looked at the record from all our hearings I think it would be very clear what I just explained was exactly what was presented, and that was the whole impetus behind even doing a phase I and phase II planning. So it was clear to everyone that was reviewing it that it was clearly our intent that there was -- this was a phased project, otherwise there would be no reason to show any kind of phasing whatsoever.

One of the reasons it's important from the bank's standpoint -- there's a couple reasons. One, from our personal point of view is based on those hearings we had with the Planning

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Board and our understanding of what was agreed to, we in fact entered into lease with Key Bank such that they don't want to have any time such where they're not operating a bank out there. Well, if we're not able to do this in phases, obviously they're going to be out of business for two months maybe if they are not able to do that. There's serious consequences both to us as a landlord and to them as an operating bank from the FDIC's standpoint and noticing their customers and losing customers over the two-month period they're not able to open. That would be devastating to both us as a landlord and to them as a bank. So it was all our understanding it was always -- that's how it was presented at those meetings, that certainly it was our intent to be able to move them. In fact, they wanted to move over the weekend, move them from their existing building into their new building, open up and then demolish the old building. That really needs to happen.

CHAIRMAN EWASUTYN: If the Board would agree, I think we heard from Jerry, we understand your point, and I don't think it would be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

beneficial to go back and forth as to what may have been understood or what may have been missed. We would then ask Mike Donnelly to explain what we may have to do in order to accommodate you, what may have to be amended and any changes necessary.

Mike, please.

MR. DONNELLY: Certainly both of the pillars that you built your argument on are certainly true. You did have a phasing plan that showed phase I and phase II in the manner you described. Number two, the Board spent a great deal of time in trying to devise a way to allow Key Bank to do what you said, that is not miss a day of business. But the resolution that the Board reached, and it's one that's capable of amendment but I think it's helpful that we understand what it was, was not to honor your phasing plan but to honor something else. That was a condition of the resolution, and I'll read it. It says as follows: "Condition number four, all required site work identified in the joint construction phasing plan shall be completed to the satisfaction of the town engineer and town

1 building department before any certificate of
2 occupancy is issued for a structure on either
3 site." That's all of the work in both phases.
4 Then we said, "Notwithstanding the foregoing, the
5 applicant shall be permitted to post financial
6 security to the satisfaction of the Town Board
7 and town attorney to ensure completion of all
8 site improvements that cannot be completed until
9 demolition of the existing Key Bank building."
10 That way we allow Key Bank to accomplish the
11 result but still had all of the improvements
12 made.
13

14 If what you're proposing now is that no
15 one will get a CO other than Key Bank before the
16 roadway improvements are made, I think the
17 Planning Board, if it thinks that's appropriate,
18 can modify its resolution when it approves an
19 amended site plan that says just that.

20 MR. BEYER: Okay.

21 MR. DONNELLY: But no other COs,
22 whether for Walgreen's or Orange County Trust,
23 can be issued until all of the remaining
24 improvements, including the demolition and the
25 road widening, are done. I'm not saying the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Board has to do that but it is a different approach than it took, you know, a year ago when it granted the approval that it did. In other words, the Planning Board wanted to meet your client's needs and desires but it did it in a different way than your phasing plan, and it could do that yet again here now but its concern is the opening and to what extent of occupancy on the site without the roadway improvements that are needed, and I think that's the focus of the discretion of the Board.

MR. BEYER: I have no objection to that approach. It was always our intent -- really the only intent was to keep Key Bank open. The rest of the work one-hundred percent would be complete prior to Walgreen's opening. At this point, since Orange County Trust has to start with construction, I think that's a non-issue for them. I would have no objection if the Board was willing to do that. That would work for us just great.

CHAIRMAN EWASUTYN: What is your target date for opening?

MR. BEYER: Key Bank right now is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

39

targeted for July 13th.

CHAIRMAN EWASUTYN: Your target date for Walgreen's?

MR. BEYER: Probably not until September. The first week in September.

CHAIRMAN EWASUTYN: Mike, excuse me, you started to--

MR. DONNELLY: I just wanted to make sure if this is the direction the Board is going to go, that Orange County understands and is on board because it greatly affects their rights in some ways to the disadvantage of that bank over Key Bank. We're saying Key Bank can open before the roadway improvements are done but nobody else can, and there's a logic to that because it's to accommodate Key Bank's relocation. This is a joined-at-the-hip site plan approval and that was very important to the Planning Board, and that's why I said to you over the phone and in my letter that I think it requires a joint amended site plan approval. With that condition I think we need to give some kind of notice and opportunity to Orange County Trust to be heard before we go in that direction.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BEYER: Understood. I've had many discussions with Orange County Trust about what we're trying to do here. I don't think that will be an issue. They -- I'm not sure where they are in the process.

Do you know where they are in the process?

MR. DONNELLY: No. I'm not sure where they are either.

MR. BEYER: But we have a cost sharing agreement with them for this improvement. They have acknowledged that we have taken the lead in constructing the improvements. They're reimbursing us their fair share of the cost in doing that improvement. Their engineer has started working on making the necessary revisions to his site plan to accommodate the changes to the intersection. They're well aware of what we're doing and we're coordinating daily with them to do that. They're well aware they need to do an amended site plan as part of that. I can have them weigh in at a meeting. I can have them probably write a letter approving the concept. Whatever works for the Board.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DONNELLY: The other issue is if we just formulated it like we did before, any improvements that are ultimately to be required that aren't being completed now will have to be subject to satisfactory financial security to ensure that they will be done.

MR. BEYER: All right. Those are all -- that's all done. Everything is --

MR. DONNELLY: I'm talking now about it would include the roadway improvements.

MR. BEYER: That is bonded right now.

MR. DONNELLY: I didn't realize it was.

MR. BEYER: We have a letter of credit in place for -- one letter of credit for the drainage improvements we're doing and a separate one for the off-site roadway. It was accepted by the Town Board. That was a part of the resolution. We were required to do that as part of the site plan resolution.

CHAIRMAN EWASUTYN: Would the Board Members be in favor of approving an amended site plan the way Mike Donnelly has just suggested, with an understanding that for the record we will receive some kind of written acknowledgement from

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

42

Orange County Trust that they're in favor?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: That portion I am in agreement with, however I do have a concern with our original resolution basically had a situation from a people/user standpoint. The only thing that was being done on site once it was occupied was demolishing the old Key Bank building because it was a very small parcel. Now we're saying construction is going to continue on the large parcel at the same time we have people using a smaller portion of the Key Bank on the property, which to my mind raises a logistics and a safety concern which we haven't talked about at all.

CHAIRMAN EWASUTYN: I think, and that will be answered but I think the actual improvements off site, the paving, the parking area, that will all be complete with Key Bank coming into operation. Correct?

MR. BEYER: Well I think the best way to answer that -- have you been out to the site recently?

MR. BROWNE: Not recently.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BEYER: I think the best way to answer that is the condition will be a hundred times better than it is today. Right now you have the large part of the site that's under construction for the entire building and most of the site improvements and an operating bank on the corner right now. What we're talking about doing is opening up the large part of the site and operating with Key Bank, obviously depending off the controls, to keep people out of the small area where the existing Key Bank is being demolished. The best way I can think to answer that question is we're controlling it pretty well out there now with the existing bank. It will only be much better once Key Bank moves and we're able to demolish that building.

CHAIRMAN EWASUTYN: Let's take it a step further. I think much better would really have to be agreed upon by the building department. Correct?

MR. CANFIELD: Yes. But prior to that, John, I think it would be beneficial for all of us involved if we had a clear picture.

I would feel better, Josh, if you could

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

explain to us exactly what you anticipate to have completed on the site, per se phase I, at the time of CO in July for Key Bank. What can we expect to see completed?

In our discussions earlier today, and I conveyed that to the Board in the work session, the site would be fully functional with all driving lanes, striped parking and everything. Perhaps it will come from you.

MR. BEYER: You're absolutely correct. If you look at the plans that were approved by the Board in phase I, shown as phase I, everything that's shown as phase I will be complete prior to Key Bank getting a C of O, which is landscaping, striping, signage. Everything that's shown on those plans. If it's in the outlines of phase I it will be complete.

MR. BROWNE: What will you still be doing with the drug store area?

MR. BEYER: The drug store will be done. It's going to be sitting there waiting for us to demo the existing Key Bank and finish the paving on that side of the building. So the building will be complete.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

MR. BROWNE: I had the impression there's going to be work going on in the building.

MR. BEYER: No. They're building the building at the same time. The building will be complete, it's just a matter of getting the existing bank out of the way so they can finish the parking.

MR. FOGARTY: But all the other parking will be taken care of?

MR. BEYER: All the other parking sitting underneath where the building is today won't be completed.

MR. DONNELLY: In effect we're returning now to honor the phasing plan that was part of the plans but ignored by your resolution condition that we carved out of our own separate phase. Now we're going to return to the phases that were originally presented and honor them, but all of the phase II improvements, if they are not already bonded, will have to be bonded before they can move forward.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I'm agreeable to a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

46

revised resolution as Mike outlined.

CHAIRMAN EWASUTYN: An amended site plan would reflect that.

Joe Profaci?

MR. PROFACI: That's fine.

CHAIRMAN EWASUTYN: Tom?

MR. FOGARTY: Fine.

CHAIRMAN EWASUTYN: John?

MR. WARD: Fine.

CHAIRMAN EWASUTYN: Any comments from Pat Hines? Do you have anything you would like to add?

MR. HINES: No. The off-site drainage improvements have been completed as far as I know. That was our issue with the off-site improvements.

MR BEYER: We have a letter.

MR. HINES: I'm sure they can work with Ken to get you a revised site plan.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have nothing.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Just one question, John. We didn't actually discuss the proposed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

47

relocation of the road. I don't know if Pat had a chance --

MR. HINES: I think if it's an amended site plan --

MR. DONNELLY: That's going to be part of -- okay.

MR. HINES: You're going to get two amended site plans, my understanding.

MR. DONNELLY: Yes.

MR. BEYER: Quite frankly, ours will probably come first. We had -- the plan that was approved with our project, it was the same plan that was in their set of drawings as well. It was an off-site improvement plan that had the drainage improvements on one sheet and it was in both their sets of drawings.

MR. HINES: I know. That was my opinion too, but I can't find it in the approved set.

MR. DONNELLY: I'm sure it's in there somewhere. We looked quick.

MR. BEYER: I've got a copy.

MR. HINES: I mentioned to the Board I thought there was one plan sheet on both sets.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

48

MR. BEYER: It's called OS-1. We created it at the very end and it got attached to both projects.

MR. DONNELLY: You're going to amend that to relocate the road, and those improvements will become part of your phase II improvements?

MR. BEYER: Correct. Correct.

MR. HINES: That's fine.

MR. DONNELLY: And the amended plan has already been provided to Ken Wersted?

MR. HINES: A sketch of it.

MR. BEYER: Now all the details -- now that Ken has said yes, I agree with it, we're putting all the details in that plan.

MR. HINES: That's going to also amend Orange County Trust.

MR. BEYER: Which they are working on as well.

MR. CANFIELD: And they understand they also have to make a submission?

MR. DONNELLY: Yeah.

MR. BEYER: Through me they do. I'll get a letter of understanding that they understand what the process is.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DONNELLY: I would prefer to have it in writing.

MR. MENNERICH: Just one other thing. When you mentioned the relocation of the utility pole in the beginning of your presentation and the estimate went skyrocketing high, was the cost that was involved in that increase from just Central Hudson?

MR. BEYER: It was actually not from Central Hudson. It was from the other utility around here who will remain nameless.

CHAIRMAN EWASUTYN: Mike, would you give us conditions in the resolution for amending the resolution of the original approval and also for the amending of the site plan? We won't be amending the resolution.

MR. DONNELLY: I'll read you the resolution. We'll carry forth all of the other conditions. Number one, we're going to need to have a plan set. I don't know whether you want to act before you have that because it's only a concept you have so far. We'll obviously need a buy-in from Orange County Trust, a written letter. I suggest in my letter to you we should

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

at least take a quick but hard look at whether or not there are any additional environmental impacts that are created by this change. I don't expect there are any. I think that's easily taken care of. The guts of the resolution as changed would be that we would amend the approval to allow Key Bank to receive a CO after all of the improvements shown on construction phase I, the map that was part of the August 31, 2007 plan set, are completed. Meaning before the roadway improvements are finished. And then no further COs for Walgreen's or Orange County Trust will be issued until all of the other improvements, those on phase II as well as on the joint construction phasing plan, the roadway and all of the other off-site improvements, have been completed and whatever financial security is required, and I don't know that it's any different than what's already been done but that's for the Town Board. I don't know that you can act until you actually have a plan before you. Right now it's only a sketch.

CHAIRMAN EWASUTYN: When do you think you're going to have a plan?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

MR. BEYER: Early next week. Early next week.

MR. HINES: It's Thursday you know.

MR. BEYER: I talked to Tim O'Brien today and he said he should be finishing it up tomorrow actually. It would be early next week.

So what is the process? It will be sent in to Bryant I guess and he'll send it out to the consultants?

CHAIRMAN EWASUTYN: I think to expedite it you would send a copy to Bryant, a copy to Pat Hines, a copy to Jerry Canfield and a copy to Ken Wersted.

MR. DONNELLY: We need an amended site plan application, probably just so we have it in the file, a short form E.A.F. I don't think the issues are much.

MS. HAINES: You can get that off the website. If you can't find it you can call me, I'll talk you through it.

MR. DONNELLY: I think that's the process, an amended application with the plan set. Send them directly to the consultants. I'll take a crack at rewording the resolution

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

52

right away and send you a copy to make sure we're on the same wave length in terms of the language.

MR. BROWNE: The revised whatever, how is that going to get attached to Orange County Trust?

MR. DONNELLY: What we did, and unfortunately it's not reflected in the plan set listed in the resolution but I know it's there, we had a joint construction phasing plan that Tom DePuy prepared and it became part of both approvals. That's the only thing that's going to be amended in terms of the plan, and that will again be incorporated into the approval for both projects.

MR. BROWNE: So the other project leader has to sign off on that?

MR. DONNELLY: Absolutely.
The last issue I raised in my letter is whether or not you feel the need to hold an additional public hearing on these changes.

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PHARMACY & BANK

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: All right. Let the record show two parts, that the Board will take this action up under Board Business on the 21st of May, which is our next meeting, at which time I'm going to safely feel that all our consultants have had their plans and will be ready to comment. I know Ken Wersted will be available at the meeting of the 21st.

MR. BEYER: Okay.

CHAIRMAN EWASUTYN: And also that the Board waive the action to have a public hearing.

MR. BEYER: Okay. Thanks, everybody. I appreciate the time. Thank you for getting me up here so quickly, I appreciate it.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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: May 24, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

----- X
In the Matter of

GETTY ROUTE 17K
(2008-25)

91 Route 17K
Section 95; Block 1; Lot 34
AR Zone

----- X

CONCEPTUAL SITE PLAN
ARCHITECTURAL REVIEW BOARD

Date: May 7, 2009
Time: 7:45 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DAWN FUCHAK

----- X

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

MS. HAINES: The next item on the agenda is Getty Route 17K. It's a conceptual site plan and ARB, it's located on 91 Route 17K in an IB Zone and being represented by --

MS. FUCHAK: Dawn Fuchak. I brought with me this evening the paint sample which is Benjamin Moore Monterey white.

CHAIRMAN EWASUTYN: Do you want to point to where that would be?

MS. FUCHAK: Yup. It's going to be on the two sides and the front of the building. Also currently these windows are covered by T-111 and they are going to be replaced with mill finished aluminum windows. So they're on the plan but on the building itself currently this is covered by T-111.

The site plan approvals. They noted they were looking for plan approval subject to any necessary revisions. I do have recommendations here from Karen Arent in regards to landscaping. The office is more than happy to work directly with her in regards to any revisions she might want to see on this plan.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

57

CHAIRMAN EWASUTYN: I'll turn it over to Jerry Canfield for his comments. Jerry.

MR. CANFIELD: The applicant's representative has indicated they have been before the ZBA. Your resolution has not been filed yet. In the work session we did discuss the conditions of that, though.

Also there will be a requirement to file a site plan, an amended site plan, inclusive of the landscape recommendations of Karen Arent.

MS. FUCHAK: Mm'hm'.

MR. CANFIELD: Also we had discussed including in that plan the parking lot paving and striping details.

MS. FUCHAK: Yes.

MR. CANFIELD: That will be depicted on the plan.

MS. FUCHAK: Yes.

CHAIRMAN EWASUTYN: Pat Hines, any comments?

MR. HINES: That's what we had was the striping. I think the submission of an amended site plan would be appropriate since the one is over ten years old that was submitted.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. FUCHAK: Yes.

CHAIRMAN EWASUTYN: Bryant Cocks.

MR. COCKS: I have nothing further.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: We're going to need a new site plan map?

MR. HINES: Yes.

MR. GALLI: That means they'll have to come back before us? Is that what we need, John?

CHAIRMAN EWASUTYN: I think we were discussing that. We were going to act on it seeing the revisions that would be shown on the plans from Karen Arent's comments which would then compliment the motion that was made by the ZBA to have Karen review the plan as far as the aesthetics. So it would be satisfying the request from the ZBA and at the same time we would change the ADA parking standards which you have right now which Pat Hines said do not meet the current standards.

MS. FUCHAK: Can I ask a question?

CHAIRMAN EWASUTYN: Sure.

MS. FUCHAK: The architect that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

59

reviewed these this morning said that they were in compliance. So I need to go back and he's like I don't understand, they are in compliance.

MR. HINES: They're supposed to be eight, eight and eight. They're not that size. They're actually larger.

MS. FUCHAK: Right. You want them eight, eight and eight?

MR. HINES: Yes. There's some signage that the Town requires for the handicap --

MS. FUCHAK: And then any striping.

MR. HINES: Yes.

MR. CANFIELD: The loading zone.

MS. FUCHAK: Okay.

MR. CANFIELD: Striping in the loading zone.

MS. FUCHAK: Okay.

MR. GALLI: Can they be larger? I know they can't be smaller but --

MR. HINES: I don't think so. I think there's a standard that they have to comply with.

MR. GALLI: Okay. I didn't know if larger would be better. If there was an eight minimum --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

60

MR. HINES: I don't know that it's minimum. I think that's the standard.

MR. GALLI: Okay.

MR. HINES: I'll defer to Jerry on that.

MR. CANFIELD: Yes, it is. It's a State requirement.

MR. HINES: Since the pavement is torn up and they have to be restriped we should restripe them. My comment is if they are there and painted now -- apparently the site has gone through some significant demolition, so now is the time to clean it up.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: Is there anything going on with the canopy? Are we talking the building or the whole site? Just the building?

CHAIRMAN EWASUTYN: Right.

MR. BROWNE: We're changing vendors?

MR. HINES: It's my understanding from Karen the tanks have been removed, the gasoline tanks.

MR. GALLI: They're out. There's construction up there. Tank removal.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

61

MR. HINES: Karen said the whole site is dug up.

MR. CANFIELD: It is now.

CHAIRMAN EWASUTYN: It's funny, when she said that I remember driving on the site recently and I didn't see any signs of tanks being removed. It surprised me.

MR. HINES: She said yes, it's all dug up.

MR. CANFIELD: I knew the tanks were coming out.

MR. GALLI: I rode by today. The tanks are in the back. There's construction back there. I don't know if that's where the tanks are but there was definitely a Bobcat and a backhoe running around back there because I went up to the post office, and I went up to The Landscape Center, and then I had to go to get gas at Pilot and then I turned around.

MR. CANFIELD: If the tanks are being removed they need a permit.

MR. HINES: Maybe they're not. Karen told me that the site was dug up.

MS. FUCHAK: Let me tell you what I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

62

have here from McGoey, Hauser & Edsall.

MR. HINES: That's me.

MS. FUCHAK: That's you. Additional changes to the site plan are interior to the building. No other changes to the site are proposed. I mean --

MR. HINES: I heard tonight from Karen Arent who went to the site that the pavement on the site has been excavated. She was pretty adamant about that.

MR. GALLI: There's somebody working up there because I saw a backhoe and I saw a Bobcat.

CHAIRMAN EWASUTYN: I can't imagine the tanks being behind the building.

MR. WARD: There's no room behind it.

MR. CANFIELD: Are you prepared to tell the Board what they are doing to the site as far as the pavement goes?

MS. FUCHAK: I don't have that -- I mean they just reviewed this with me today. You know, it's just the parking and the pavement is all the information I have in regards to -- and landscaping in regards to the site.

MR. CANFIELD: The parking lot will be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

63

resurfaced? That's what our understanding is.

MS. FUCHAK: Right. It's all torn up and it needed to be ADA compliant and all the restriping. I would say yes.

MR. GALLI: Don't they need a permit to take the tanks out?

MR. CANFIELD: Yes, they do. There is no permit.

MR. HINES: I don't know that they took the tanks out. I assumed because it's a gas station and they're excavating.

MR. WARD: I went by there today and I didn't see tanks out.

MR. GALLI: As I said, I saw a Bobcat and a backhoe.

MR. CANFIELD: They could be doing the parking lot with that type of equipment.

MR. GALLI: I didn't see any tanks out but I saw two machines running around the parking lot.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I don't remember back when this first started if there was anything -- we said there's no work on the canopies out front,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

64

any of that kind of stuff. The pumps are the same?

MR. HINES: There's nothing shown on the current plan to be removed.

MR. BROWNE: Okay. Fine.

MR. DONNELLY: Under the zoning chapter, if there's a change in use, and this is the addition of the check cashing use which the Zoning Board has found to be accessory, but nevertheless it is a change in the nature of the use that triggers the need for site plan approval, the site plan should show whatever it is the applicant is going to do on the site, restriping, landscaping, et cetera.

CHAIRMAN EWASUTYN: That's why we want to see revised plans reflecting that.

Ken Mennerich?

MR. MENNERICH: Tonight we're not going to act on the site plan but we can act on the architectural.

CHAIRMAN EWASUTYN: We can do that.

MS. FUCHAK: Okay.

MR. DONNELLY: One of the issues is we have to send it to Orange County Planning.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

65

CHAIRMAN EWASUTYN: Do we have to send it to Orange County Planning?

MR. DONNELLY: I think our feeling was at the end of the work session that even if the Zoning Board did, we would need to send it.

MR. GALLI: That's for interior renovation?

MR. DONNELLY: No. Because it's a site plan. Because it's a change in the use it triggers a need for site plan. That triggers the need for a GML referral.

CHAIRMAN EWASUTYN: Additional comments from Joe Profaci?

MR. PROFACI: None.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: John Ward ?

MR. WARD: Just make sure there's appropriate parking because if you do check cashing it's going to be more volume going in.

MS. FUCHAK: Okay.

CHAIRMAN EWASUTYN: So at this point before we go to ARB I'll move for a motion to refer this to the Orange County Planning

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

66

Department.

MR. GALLI: So moved.

MR. BROWNE: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Dawn, you'll make it a point of speaking with your office to see that Bryant Cocks gets the plans to circulate to the Orange County Planning Department.

MS. FUCHAK: Yes.

CHAIRMAN EWASUTYN: Okay. With your revised plans I guess we're looking to see all the detail as to what would be improved. I don't know what the intent is as far as the existing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

67

guide rail, if you're going to repaint that to match the building. You're talking about a white which is -- I think that's sort of an eggshell color yellow. That you may want to revise. You might want to try and upright that guide rail somewhat, it's leaning in a different direction. You may want to have a note on the plan -- I think what we're saying is if you're going to improve the location, then we ought to cover from top to bottom to make it all look presentable and not piecemeal.

MS. FUCHAK: Correct.

CHAIRMAN EWASUTYN: Give a walk around there and see what has to be done and note that on the revised plans.

MS. FUCHAK: Sure.

MR. BROWNE: Do we need to approve anything so that Dawn can meet with Karen?

CHAIRMAN EWASUTYN: I think they have already been talking.

MS. FUCHAK: Yes. Mario Salpeppi has been speaking with her. When the comments came in from her yesterday they had a conversation. So they have been in contact. They'll be working

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

68

directly with her.

CHAIRMAN EWASUTYN: I got a copy of the ZBA outline on this. Since we didn't have a final I had Dina send a copy of that on to Karen so she can begin looking at the plans that relate to the comments from the ZBA.

MR. BROWNE: Good.

CHAIRMAN EWASUTYN: Do you want to take us through ARB at this point so if the Board decides they want to act to approve it we can do that one more time? You'll discuss the color of the paint.

MS. FUCHAK: The color of the paint is Monterey white. It is going to be on both sides of the building and also the entire front of the building. Also currently where these two windows are shown there is T-111 on the building. That is going to be removed and replaced with the mill brushed aluminium.

MR. BROWNE: What's the roof material? Is that being changed?

MS. FUCHAK: Nothing on the roof. I don't have anything for the roof. It was simply the paint and putting those windows on. I guess

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

69

they were there actually underneath the T-111.
So we're stripping that back and putting the
aluminum windows in.

CHAIRMAN EWASUTYN: Does the Board want
to act on this?

MR. GALLI: Yes.

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

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I have to drive out and
look at it. I can't tell from the drawing of
this thing.

MR. MENNERICH: No questions.

MR. PROFACI: No.

MR. FOGARTY: No questions.

MR. WARD: The building itself, is it
brick?

MS. FUCHAK: Yes. This is brick.
They're just going to paint the brick. Correct.
It's currently painted, so --

MR. WARD: Prime it good.

CHAIRMAN EWASUTYN: Does the Board want
to act on ARB tonight?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

70

MR. GALLI: I'm fine to act on it.

CHAIRMAN EWASUTYN: Then I'll move for a motion to approve the ARB for the Route 17K Getty.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Yes. So carried.

All right then. We'll be circulating to the Orange County Planning Department.

MS. FUCHAK: We'll get the necessary plans to Mr. -- to Bryant Cocks for that.

CHAIRMAN EWASUTYN: Thanks.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

71

We'll set this up for the -- work with Bryant to make sure we get a sign off from the Orange County Planning Department between now and June 4th.

When is our meeting after the 4th?

MS. HAINES: The 18th.

CHAIRMAN EWASUTYN: We can either tentatively schedule it for the 4th of June, we won't be able to act on it if we don't get a response back from the Orange County Planning Department, or we could set it for the 18th. I'll allow you to pick. The 18th?

MS. FUCHAK: Let's try to go for the 4th. The office will want to try to move it along as quickly as possible. You know, tentatively based on whether we hear back from the Orange County Board.

CHAIRMAN EWASUTYN: Great. Thanks, Dawn.

I'll move for a motion to reschedule the Route 17 Getty for our meeting of June 4th.

MR. GALLI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

72

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

MR. DONNELLY: John, you may want to
decide whether or not you want to hold a public
hearing on the site plan.

CHAIRMAN EWASUTYN: Does the Board wish
to have a public hearing?

MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Okay. Let the
minutes show that the Board waived the need for a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GETTY ROUTE 17K

73

public hearing for the Route 17K Getty.

Anything else?

MS. FUCHAK: I'm good.

CHAIRMAN EWASUTYN: Thank you very
much.

(Time noted: 8:02 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: May 24, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 Preliminary Approval

----- X

BOARD BUSINESS

Date: May 7, 2009
Time: 8:02 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
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ELM FARM SUBDIVISION

MS. HAINES: The first item under Board Business is the Elm Farm Subdivision. We received a letter from Daniel Sullivan dated May 5, 2009 requesting an extension of his preliminary approval. The current approval expires on May 16, `09. With a 180-day extension approval will be valid through November 12, 2009.

CHAIRMAN EWASUTYN: I'll move for a motion to grant the extension for the Elm Farm Subdivision as detailed by Dina Haines, Planning Board Secretary.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ELM FARM SUBDIVISION

carried.

(Time noted: 9:03 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: May 24, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

----- X
In the Matter of

INTRODUCTORY LOCAL LAW

Proposed Local Law Amending Chapter 185
Re: Sign Illumination

----- X

BOARD BUSINESS

Date: May 7, 2009
Time: 8:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

1
2 MS. HAINES: Next we have Mike Donnelly
3 going over a proposed local law amending Chapter
4 185 entitled Zoning of the Code of the Town of
5 Newburgh, Sign Illumination.

6 CHAIRMAN EWASUTYN: Do you want to
7 summarize the letter you're going to be referring
8 to the ZBA to the Town Board?

9 MR. DONNELLY: We discussed this matter
10 at the work session. Correct me if I'm wrong,
11 but the concensus of the Board is that the intent
12 of the law to allow constant non-color changing
13 LED lights as well as to allow direct lighting on
14 wood and raised letter signs is satisfactory
15 objectives to the Town Board. However, as Cliff
16 pointed out, LED is listed in the law as a liquid
17 emitting diode and it should be a light emitting
18 diode, and that correction should be made.

19 Then you wanted me to question some other issues
20 in regard to the sign law, Section 185-14, as
21 well as the design guidelines, like what is the
22 intent of the remaining prohibition on direct
23 lighting of signs. If internally illuminated
24 signs are prohibited under the design guidelines
25 and if direct lighting is prohibited under

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INTRODUCTORY LOCAL LAW

Section 185-14 with the exception of wood carved signs and raised letter signs, what type of lighting of signs is allowed? What is intended by the words diffused lighting, indirect lighting, et cetera. We think those should have more specific defined meanings so that someone who reads the ordinance can get a better handle on what is intended, what is allowed and what is prohibited and why. Perhaps some of those clarifications could be made at the same time as these changes are made. So I will send a letter to that effect to the Board if I've correctly stated what you discussed during your work session.

MR. BROWNE: I believe so, yes.

CHAIRMAN EWASUTN: Any changes or additions that the Board Members would like to recommend?

(No response.)

CHAIRMAN EWASUTYN: Then that will be favorable.

(Time noted: 8:05 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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: May 24, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

----- X
In the Matter of

COMPARISON OF APPLICATIONS & APPLICATION FEES

----- X

BOARD BUSINESS

Date: May 7, 2009
Time: 8:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMPARISON OF NEW APPLICATIONS

MS. HAINES: Do you want me to go over the bank again?

CHAIRMAN EWASUTYN: I guess we took that up.

MS. HAINES: The last thing is just the comparison of new applications and their fees for April 2007, 2008 and 2009. In `07 we had three, in `08 we had one, and this year we had one. Our fees are lagging behind greatly.

CHAIRMAN EWASUTYN: Any comments from Board Members before we look to close the meeting this evening?

(No response.)

(Time noted: 8:07 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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: May 24, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

----- X
In the Matter of

DISCUSSION ON SEQRA

----- X

BOARD BUSINESS

Date: May 7, 2009
Time: 8:07 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
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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

1
2 CHAIRMAN EWASUTYN: Just a brief
3 moment on it. We won't spend too much time.
4 We received a scoping document for a project
5 called Gateway. Just for a brief
6 understanding of SEQRA, where we are in the
7 process, what a scoping document is and what
8 is part and parcel of completing a scoping
9 document I'll have Mike Donnelly elaborate on
10 for the new Board Members.

11 Mike, please.

12 MR. DONNELLY: SEQRA stands for the
13 State Environmental Quality Review Act. It
14 is a provision of State law in the
15 Environmental Conservation Law, however the
16 Department of Environmental Conservation then
17 promulgated a series of regulations. The
18 regulations are far more important than the
19 statute. The statute is only a few
20 paragraphs, the regulations are extensive.

21 The purpose of the statute and the
22 regulations is to incorporate into the
23 planning board and all governmental, but
24 let's stick with the planning board review
25 process, a consideration of the environmental

1
2 impacts that an approval might have after the
3 project is constructed. The intent is to
4 incorporate that review into the project
5 review right at the beginning.

6 Procedurally the steps are this:
7 First there must be a determination of the
8 type of action. There are three flavors
9 under SEQRA. The first is Type I. Type I
10 are defined projects of a certain magnitude
11 that are presumed to be more likely to have
12 significant environmental impacts. The next
13 category is Type II, and that's the other end
14 of the spectrum. Those are projects that by
15 definition are ruled out of SEQRA review.
16 They do not require environmental review.
17 They are things like buildings of under 4,000
18 square feet, minor revisions of residential
19 homes, building permit applications for
20 residential homes, minor area variances,
21 et cetera. The vast majority of actions fall
22 between those two in something called
23 Unlisted. All Type I's and all Unlisted
24 actions are subject to review under SEQRA.
25 Type II actions are exempt. The Getty is a

1
2 Type II because the building is under 4,000
3 square feet in size. After the action has
4 been typed there has to be a decision on lead
5 agency. If you are the only Board or body
6 that has decision making authority you are
7 the lead agency. When there is more than one
8 agency that has decision making authority,
9 then there has to be a decision. Sometimes
10 you'll hear us say we're the lead agency.
11 Other times, like earlier this evening, we
12 issued a notice of intent to be lead agency.
13 That has to be sent to the other agencies,
14 and if they don't, within a period of thirty
15 days challenge that, then we are the lead
16 agency. After lead agency is decided, the
17 next step is the fork in the road called a
18 declaration of significance. The lead agency
19 has to decide by looking at the application
20 and a document called an E.A.F., an
21 environmental assessment form, all
22 applications have such a form in the folder,
23 whether or not the project is likely to have
24 a significant affect on the environment or
25 whether it will not have an affect on the

1 environment. If it will not have an effect
2 on the environment it is called a negative
3 declaration and that ends SEQRA review for
4 that project. If you issue -- if you
5 determine that the project is likely to have
6 a significant affect on the environment, you
7 issue a positive declaration, and that
8 requires the preparation of an environmental
9 impact statement. If you issue a positive
10 declaration the first thing you have to do is
11 tell the applicant what has to be in the
12 environmental impact statement, what issues
13 do they have to address. They work from a
14 document called a scoping outline, and in
15 scoping often the applicant prepares the
16 first draft, but it isn't required, and it's
17 based largely on the categories within the
18 environmental assessment form. The Board
19 gets the scoping outline, it can make changes
20 to it, it can, if it chooses to, hold what's
21 called a scoping public hearing where the
22 public is permitted to put in their two cents
23 as to what should be in the outline for the
24 project. After scoping is completed a
25

1
2 finalized scoping document is given to the
3 applicant and they then, based upon that,
4 prepare essentially a table of contents, they
5 prepare the draft environmental impact
6 statement. There's a process to review the
7 draft environmental impact statement. When
8 it's found to be satisfactory for the purpose
9 of beginning a public review, you then hold a
10 public hearing. After the hearing process is
11 closed and the public comment period ends,
12 those comments must be addressed in a
13 document called a final environmental impact
14 statement. Those two documents together are
15 the study of the environmental impacts. Then
16 before the Planning Board can take action on
17 the project it must issue a findings
18 statement. The findings statement
19 dictates the mitigation measures that the
20 applicant must satisfy before his project can
21 move forward. They are basically things that
22 they'll have to do to change their plans in
23 order to minimize or mitigate the
24 environmental impacts that were identified in
25 the study. The purpose of environmental

1 review is not and could not be to ensure that
2 there will be no environmental impacts.

3 There certainly will be environmental impacts
4 from a lot of projects. The objective is to
5 ensure or to accomplish the greatest possible
6 mitigation. The language in the statute and
7 the regulations used is mitigation to the
8 maximum extent practical. In other words,
9 you have to weigh how much is fair and
10 appropriate to require the applicant to do to
11 minimize that environmental impact.
12

13 Completely removing environmental impacts is
14 not possible or required, you have to
15 mitigate it. You have to identify them,
16 study them, and then issue findings to try to
17 mitigate their effects. That's an outline of
18 what SEQRA is all about.

19 The point we're at now is the
20 Gateway project has submitted a -- we said
21 they were at the scoping stage. They
22 submitted a scoping outline that needs to be
23 finalized by the Board.

24 MR. FOGARTY: Is it the applicant that
25 fills out the SEQRA?

1
2 MR. DONNELLY: It is the option for
3 either the lead agency itself to do the
4 environmental impact study or for the applicant.
5 It is rare where the lead agency does the study
6 itself. It is almost always the applicant. I
7 have been involved in cases where the planning
8 board as lead agency actually prepares the impact
9 statement and charges the cost back to the
10 applicant. That might work with a generic
11 environmental impact statement where you're
12 studying the impacts in a region as a result of
13 build out. Very often you lack the information
14 necessary to address the impacts because you're
15 not the one proposing it. It's the applicant who
16 knows what he wants. Usually it's the applicant
17 that --

18 MR. FOGARTY: Once he's filled that out
19 he then submits that to the planning board?

20 MR. DONNELLY: That's called a draft
21 environmental impact statement.

22 MR. FOGARTY: Then we review that to
23 see --

24 MR. DONNELLY: There's two steps.
25 First is you must look at it, compare it to the

1 scoping document, make sure they have addressed
2 everything that was in the scoping outline. It
3 need not be fully satisfactory to you. The
4 standard -- the first point is is it adequate for
5 the purpose of commencing public review. Is it
6 good enough to get started. After the public has
7 had their two cents and the other agencies have
8 given you information, now it's your job to tell
9 the applicant precisely what they have to
10 finalize in the final environmental impact
11 statement.
12

13 MR. FOGARTY: Thanks.

14 CHAIRMAN EWASUTYN: John, do you have
15 any questions?

16 MR. WARD: Before that do they give you
17 a site plan and this way that's the step before
18 that?

19 MR. DONNELLY: Right at the beginning
20 in every project you get a copy of the site plan,
21 the subdivision, an application packet, a set of
22 plans and the E.A.F.

23 MR. WARD: Then you go forward?

24 MR. DONNELLY: I left that out.

25 MR. WARD: I thought that but I wanted

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to make sure.

MR. DONNELLY: That's the way it always starts. Right.

CHAIRMAN EWASUTYN: I just thought since you have it and it's in your box, we'll be setting that probably in June, just so you know what the material is in there. We historically from -- I can't think of a time we haven't had a public hearing on a scoping document. So that's pretty much always been the Board's policy.

MR. BROWNE: Didn't we do one --

MR. DONNELLY: The Marketplace.

CHAIRMAN EWASUTYN: Sure. Yup.

MR. GALLI: Did you say we're going to have one on this?

CHAIRMAN EWASUTYN: I would imagine. We always have. The only difference was one time many years ago, you weren't even born then,

MR. GALLI: Thank you.

CHAIRMAN EWASUTYN: -- we had them during the day because the policy sometimes was to do things during the day. The public, I can't remember which one it was, they got upset we were having a scoping session during the day because

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

they couldn't participate.

MS. HAINES: Should I see if the applicant will get us two more site plans for Tom and John because they don't have it for this project?

CHAIRMAN EWASUTYN: That's fine.

MR. WARD: That would be great. I'd like to see it. Thank you.

CHAIRMAN EWASUTYN: All right. Anything else?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion --

MR. DONNELLY: I'm sorry. One thing I did mention to you and I think you received it. Maybe you didn't. Did you get a copy of the notice of the hearing on the DOT ---

CHAIRMAN EWASUTYN: After you mentioned it to me, then I asked Dina to give me John's telephone number and I was going to call him. I said to myself --

MR. DONNELLY: I just assumed everybody was cc'd. Just so you're aware because you may hear it from other officials in the Town, this is

1
2 another issue in SEQRA. When the lead agency
3 does SEQRA they're supposed to do the
4 environmental review and study for all of the
5 agencies including the DEC and the DOT. That was
6 done in The Marketplace project. Now the DOT --
7 a piece of The Marketplace project is for the DOT
8 to convey land to The Marketplace, what's called
9 -- what's the phrase they use -- basically land
10 that they don't need, excess land or something,
11 to convey it so it can be utilized as part of the
12 buffer and roadway system for the project. They
13 want to have, as is their option, a public
14 hearing of sorts before they finalize the
15 conveyance of that land. The applicant has sent
16 us a copy of that notice. I got it through Mark
17 Taylor. I don't know why it didn't go to the
18 Planning Board but I'll send it out to everyone
19 in the morning. I believe the day is May 28th.

20 MR. GALLI: The Quality Inn on 17K.

21 MR. DONNELLY: There's no requirement
22 that the Planning Board attend. Obviously
23 Members of the Planning Board can attend. If
24 there's any communication you want to send as a
25 Board, you can do that as well. Frankly I think

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

you studied the very issues you'll probably hear public comments on but the applicant wanted you all to know, that's why I'm surprised you didn't get a copy, that this hearing had been scheduled.

MR. WARD: I saw it somewhere.

MR. DONNELLY: I'll send a copy.

MR. WARD: I might have had it on the e-mail.

CHAIRMAN EWASUTYN: You'll see on your agenda that will be coming in next for the meeting of the 21st. You'll see the Shoppes at Union Square. You won't be receiving any revised maps. I believe Adrian Goddard will just send a general letter. What Adrian will do is he'll give us an update on the project. That's the purpose of that.

I can't think of anything else at this point. Anything else?

(No response.)

CHAIRMAN EWASUTYN: Thank you all. I'll move for a motion to close the Planning Board meeting of the 7th of May.

MR. GALLI: So moved.

MR. PROFACI: Second.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DISCUSSION ON SEQRA

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:19 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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: May 24, 2009