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

----- X

In the Matter of

SUBDIVISION OF LANDS OF SCENIC VIEW
(2010-06)

Orchard Drive
Section 1; Block 1; Lot 138
AR Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: May 20, 2010
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

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MR. BROWNE: Good evening, ladies and gentlemen. Welcome to the Town Planning Board meeting of May 20, 2010. At this time we'll call the meeting to order with a roll call vote starting with myself.

MR. BROWNE: Aye.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that provide professional reviews on input that's before us at the moment, including SEQRA determinations as well as code and compliance detail. I ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

MR. HINES: Pat Hines with McGoey,

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Hauser & Edsall, Consulting Engineers.

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

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

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

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

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

(Pledge of Allegiance.)

MR. PROFACI: If you would switch off
your cell phones or any other electronic devices.

MR. BROWNE: Thank you. This evening
our first two items of business are public
hearings. At this time I would ask Mike Donnelly
to discuss briefly the purpose of a public
hearing.

MR. DONNELLY: The first application is
a subdivision application, and the law in New
York requires that a public hearing be held on a
subdivision application. The second, Quick Chek,
is a site plan application, and public hearings

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2 are optional at the decision of the Planning
3 Board. In both cases the purpose of the public
4 hearing is for you, the members of the public, to
5 bring to the attention of the Planning Board
6 issues or concerns that the Planning Board might
7 not yet itself have recognized, even with the
8 help of its consultant team that looks at the
9 project and plans. With that in mind, after the
10 applicant makes the presentation in each case,
11 the Chairman will ask those members of the public
12 who wish to speak to raise their hands to be
13 recognized. We would ask that when you are
14 called upon, that you step forward so that
15 everyone can hear you and so our Stenographer can
16 take down correctly what you say. We would ask
17 you to first tell us your name, spell it for the
18 Stenographer if you could, and tell us where you
19 live in relation to the project, then address
20 your concerns to the Board. If you have a
21 question that can be answered quickly, the
22 Chairman may ask one of the consultants or one of
23 the applicant's representatives to answer the
24 question. Again, the primary purpose is not
25 questions but really for you to tell us what your

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concerns and issues are.

MR. BROWNE: Thank you, Mike.

The first item of business we have is a public hearing, two-lot subdivision, Subdivision of Lands of Scenic View, Orchard Drive, being represented by Lawrence Marshall.

Before Lawrence makes his presentation I would ask Ken Mennerich to read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Subdivision of Lands of Scenic View Land Developers, Incorporated for a two-lot subdivision on premises Orchard Drive in the Town of Newburgh, designated on Town tax map as Section 1; Block 1; Lot 138. Said hearing will be held on the 20th day of May 2010 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town

1 of Newburgh Planning Board. John P. Ewasutyn,
2 Chairman, Planning Board Town of Newburgh. Dated
3 April 22, 2010. Publish one time only."

4 MR. FOGARTY: We sent out fourteen
5 certified letters to the property owners that are
6 contiguous and across the street from the
7 project, and we had ten return receipts.

8 CHAIRMAN EWASUTYN: Mr. Marshall, will
9 you make your presentation, please.

10 MR. MARSHALL: Okay. This is a
11 proposed two-lot subdivision on the westerly side
12 of Orchard Drive adjoining the county boundary in
13 the Town of Plattekill. The lot is -- the parent
14 parcel is a 7.7 acre parcel. It's also lot 6 on
15 a previous filed subdivision map, the map being
16 known in the county clerk's office as map number
17 113-07. It was previously subdivided from the
18 remaining lands previously owned by Scenic View
19 in 2007. This is a resubdivision of that lot
20 subdividing it into a 1.9 acre parcel and a 5.8
21 acre parcel.
22

23 Both lots will be served by individual
24 wells and septic systems.

25 CHAIRMAN EWASUTYN: Thank you.

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2 As Mr. Donnelly had said earlier this
3 evening, now we'll turn this application over to
4 the public. So anyone who has any questions,
5 please raise your hand and give your name and
6 your address.

7 (No response.)

8 CHAIRMAN EWASUTYN: For the record, at
9 this point there's no participation from the
10 public.

11 I'll turn to our consultants for their
12 comments. Jerry Canfield, Code Compliance?

13 MR. CANFIELD: We have no outstanding
14 code compliance issues.

15 CHAIRMAN EWASUTYN: Pat Hines, Drainage
16 Consultant?

17 MR. HINES: We have a couple of
18 comments. The applicant's representative
19 submitted a narrative to the Board addressing the
20 Town of Plattekill's concerns regarding the
21 subdivision. I know Mike Donnelly will speak to
22 that later.

23 Final approval from the highway
24 superintendent is required. I know Bryant spoke
25 to him, so we'll have a letter forthcoming.

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Just a note for the Planning Board that the driveway was shifted a little bit within the flag lot section of the original lot to allow for the potential for two separate driveways, one serving a lot in the Town of Plattekill, and an easement has been proposed for that.

We reviewed the wells and septic systems and found them to be acceptable.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Just one comment. Mr. Marshall, there's a \$2,000 recreation fee that's going to need to be paid. Do you know if the owner is planning on paying that before the plans are signed or would he like to defer it until the time of the building permit?

MR. MARSHALL: I'm not sure. I would have to ask him.

MR. COCKS: Okay. So there's a note that needs to go on the plan. Just send me an e-mail and I'll send it over to you. That was the only comment I had.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

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MS. ARENT: I have no comments.

CHAIRMAN EWASUTYN: Ken Wersted,
Traffic Consultant?

MR. WERSTED: No comments.

CHAIRMAN EWASUTYN: At this point I'll
turn to the Planning Board Members.

MR. BROWNE: Nothing additional, John.

MR. MENNERICH: I have no questions.

MR. PROFACI: No comments.

MR. FOGARTY: No comment.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Is there anyone
here this evening who has a comment or a question
on the two-lot subdivision for the Lands of
Scenic Developers?

(No response.)

CHAIRMAN EWASUTYN: Okay. Being no
participation from the public, I'll move for a
motion to close the public hearing for the two-
lot subdivision for Scenic View Land Developers.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by
Joe Profaci. I have a second by Ken Mennerich.

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Any discussion of the motion?

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point we'll turn to Mike Donnelly, Planning Board Attorney, to give us conditions of approval in the resolution.

MR. DONNELLY: Yes. This is both a preliminary and a final subdivision resolution. We do not need any sign-off letters from your consultants except if the applicant wishes to avail itself of the deferral of the resolution of the Town Board from last summer. Beyond that, we do not need -- we need a highway superintendent sign off on the driveway location. I believe he has done that in principle. We'll need a letter from him. We will need the payment of parkland

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fees. Those are the only conditions required.

CHAIRMAN EWASUTYN: At this point I'll move for approval of the two-lot subdivision for the Lands of Scenic View subject to the conditions that our Attorney, Mike Donnelly, has presented to us.

MR. WARD: So moved.

MR. PROFACI: Second.

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

MR. BROWNE: Just a comment, John. Are we going to have Mike send a letter to Plattekill? Should that be mentioned someplace in the minutes?

MR. DONNELLY: I thought after you voted on the resolution I'd go over the letter and ask you how you wish me to answer it.

CHAIRMAN EWASUTYN: At this point I have a motion on the table by John Ward, I have a second by Ken Mennerich. I had -- excuse me. By Joe Profaci. I had discussion by Cliff Browne. Any further discussion?

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

We'll turn the table now to Mike Donnelly.

MR. DONNELLY: As you know, under Section 239-NN of the General Municipal Law this matter was required to be referred to the Town of Plattekill. After referring it to the town we did receive a letter dated May 4th from the Town of Plattekill supervisor, and attached to that letter was a letter from the planning board. The supervisor of the town has asked us to respond to the four listed items in that memo.

The first is correct the section, block and lot number for the lots in the subdivision map located in the Town of Plattekill from section, block and lot number 107.1-1-19.22 to

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section, block and lot number 107.1-1-19.1.

Larry, you had responded to that in a letter. Has that either been accomplished or explained?

MR. MARSHALL: Yes. It's been addressed.

MR. DONNELLY: The numbers in fact have been corrected --

MR. MARSHALL: Yes.

MR. DONNELLY: -- to correspond to what they asked? Okay. So I will answer that letter by saying that correction is made.

Number two, they wanted you to add a map note to the map indicating that there will be no further subdivision of the Town of Plattekill 9.2 acre parcel. I think it's beyond your jurisdiction to restrict further subdivision of land within the town, and I think we can respectfully answer it that way. I don't mean to make light of the comment but you certainly don't have the authority to restrict further subdivision of land outside of your boundaries.

Three, they wanted to extend the noted easement access for the Town of Plattekill parcel

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2 to the property line between the two lots. In
3 addition, they wanted the developer to add a note
4 to the map that the easement access provided to
5 the Town of Plattekill lot 19.1 provided for on
6 the Town of Newburgh lot 7 shall remain
7 unobstructed. We had looked at the map and the
8 first part of that request, that the easement
9 access be continued up to where the two lots are,
10 is in fact shown in that fashion, and I believe a
11 map note was added regarding the unobstructed
12 access.

13 MR. HINES: The easement will provide
14 for that I believe.

15 MR. DONNELLY: The easement document.
16 Okay. So that will be provided within the
17 easement.

18 Lastly, the fourth comment was that it
19 appears that the site plan denotes that the Town
20 of Plattekill lot 19.1 is a separate lot, however
21 the planning board, and I think this means Town
22 of Plattekill Planning Board, has no
23 documentation that this lot was subdivided in the
24 Town of Plattekill from the portion of the lot
25 that is situated in the Town of Newburgh. The

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2 planning board recommends to the town board, and
3 then in turn the town board of Plattekill to this
4 Board, that it investigate whether this was a
5 legal subdivision, and, if not, we recommend that
6 the Town Board take whatever action necessary to
7 remedy the illegal subdivision for the lot. As
8 Larry had mentioned earlier, this is a
9 resubdivision of lot 6 in a subdivision that the
10 Planning Board, this Planning Board, approved in
11 2006. At the time of the approval, as with this
12 one, the subdivision proposed then was sent to
13 the Town of Plattekill. The subdivision as
14 proposed and as approved showed the creation of
15 lot 6 with its boundary line matching the
16 boundary line between the Town of Plattekill and
17 the Town of Newburgh. Not only did the Town of
18 Plattekill receive that but we received responses
19 back from the Town of Plattekill. They requested
20 a clarification of notes on the utility easement,
21 and that was accomplished. In their letter they
22 also reported that they approved the action and
23 the approval of the subdivision. So I can report
24 to the supervisor that in fact the lot was
25 created by a subdivision approval granted in 2006

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which their municipality had input into under
Section 239-NN of the General Municipal Law.

If that response is adequate, I will
send a letter to the supervisor, and of course
copy the Planning Board.

CHAIRMAN EWASUTYN: Is that adequate,
Cliff Browne?

MR. BROWNE: Yes.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: Fine.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Then the Planning
Board agrees with the presentation Mike Donnelly
presented us and authorizes him to send a letter
to the supervisor for the Town of Plattekill in
response to the questions. Okay.

MR. MARSHALL: Thank you.

(Time noted: 7:12 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: June 17, 2010

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

----- X

In the Matter of

QUICK CHEK
(2010-04)

Route 9W (Across from Leslie Road)
Section 25; Block 5; Lots 1 & 8
B Zone

----- X

PUBLIC HEARING
SITE PLAN & ARCHITECTURAL REVIEW

Date: May 20, 2010
Time: 7:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JEFFREY MARTEL

----- X

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QUICK CHEK

MR. BROWNE: The next item of business we have is a public hearing for a site plan and architectural review. It's Quick Chek, Route 9W across from Leslie Road, being represented by Jeff Martel.

Once again, before Jeff does his presentation, I would ask Ken to read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185-57, Section K on the application of Quick Chek Corporation for a site plan. The project site is located on New York State Route 9W across from Leslie Road in the Town of Newburgh, designated on Town tax map as Section 25; Block 5; Lot 1 & 8. The public hearing will be held on the 20th day of May 2010 at the Town of Newburgh Town Hall, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard regarding the site plan.

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QUICK CHEK

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By order of the Planning Board of the Town of Newburgh. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated April 22, 2010. Publish one time only."

MR. PROFACI: Mr. Chairman, seventy-six certified mailings were sent out, fifty-seven return receipts were received. The mailings are in order.

CHAIRMAN EWASUTYN: Thank you.
Jeff Martel.

MR. MARTEL: Good evening. My name is Jeffrey Martel, project engineer from Bohler Engineering. As was stated, we are here before this Board for site plan approval for a Quick Chek convenience store and fuel sales.

The property consists of two lots, Section 25; Block 5; Lot 1 and Lot 8. The property is currently split zoned. A large majority of the property is situated in the B zone which represents the property along Route 9W. To the rear of the parcel there's a portion of the property located in the R-3 zone. We're proposing no improvements within the R-3 zone. Our entire development is proposed within the B

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QUICK CHEK

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zone. The total of the two lots which we are proposing to consolidate is approximately 10 acres.

The uses, as I stated, the convenient store and the gasoline station, is a permitted use by code subject to Planning Board review. So of course we're here for that site plan review process.

As part of the application we're proposing no variances, and we believe we are consistent with the design guidelines. We have of course been before this Board several times, once -- I should state for the record once or twice in a previous application on this property which was withdrawn, and we subsequently submitted another application approximately six months ago which is the subject of the current application.

The convenient store is 6,924 square feet. It is a dual entrance facility, one entrance facing north towards the pumps and a second entrance facing south.

The gasoline component consists of eight fueling islands representing a total of

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sixteen fueling positions, each fueling island being able to pump on both sides of the pump, typical of all the gas stations you probably frequent today.

In addition, we have a total of four underground storage tanks fully compliant with State and Federal regulations.

We are proposing one access point on 9W centrally located along the property frontage as well as associated roadway improvements along Route 9W to provide turn lanes, both a left-turn lane into the site as well as a right-turn lane into the site, to facilitate the traffic movements. The driveway itself is also provided with three lanes, one to enter and two to exit. So you have both a lane to make a right and a lane to make a left to facilitate people exiting the site.

In terms of the total parking spaces for the facility, we are in compliance with the code. We do propose a total of sixty-nine parking spaces for this project.

We do have a stormwater management facility which has been reviewed by the Board

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QUICK CHEK

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professional, and I think we agree that it is in compliance with the State regulations, especially as it pertains to what is defined as a hot spot, which in this case is a gas station. Essentially a hot spot represents any environmentally sensitive type use, in our case a gas station. So we are compliant with the State regulations for stormwater management associated with that.

We also do have a septic field towards the rear of the property. That application is currently pending with the County for Health Department approval. We have submitted the plans, the same plans that were submitted to the County -- to the Town, to show that we have a suitable septic field to service the site.

We will be serviced by public water. Our water main is along Route 9W. We are proposing to bring that main onto the property.

We are in compliance, or will be in compliance with the fire suppression standards as well. So the property will -- the building itself will meet those regulations.

In terms of the site, that summarizes more or less the improvements. If the Board is

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QUICK CHEK

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satisfied, we'd like to just go into some of the architectural elements of the property. Before I get into a description, we were requested to bring material samples, so maybe I'll kind of -- we brought two, one for the Board to take a look at, if you would like to, and then I'll put one towards the rear that the public and the Board's professionals can see as well.

I presented elevations at the last meeting. In terms of the Architectural Review Board, just to re-summarize what the building design elements are, especially as it relates to the Town of Newburgh design guidelines, if I could just re-summarize those for a second. First of all, this development is somewhat unique from a gas station design standpoint in that we have not proposed a typical design where the canopy is in front of the store as you often most likely see with gas stations. We positioned the property with the pumps and the building in a side-by-side layout. Referring to the site plan again, the pumps are actually on the side of the building. The purpose there in terms of the design guidelines is to put more focus on the

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building and less focus on the pumps.

In terms of the building itself, we do propose what we believe is an aesthetically pleasing building, more shape than a typical convenient store which are typically just a rectangular building. We do propose a roof, a shingled roof with mansard to give it some shape. We are proposing all brick on all four sides of the building as opposed to Efface and some of the other materials, exterior stuccos and more plain block that often times you see at retail facilities.

In terms of the canopy, we've attempted to take that architectural feature and mimic it on the canopy. We do have brick columns all the way up on the canopy. The roof structure on the canopy is also intended to mimic the building so the two structures compliment each other.

What we did is we actually prepared simulation renderings of the property, which I'd like to pass out and also present up here. The idea is sometimes these renderings in a two-dimensional view don't fully portray how this site will look. What we've done, and what I'll

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hand out here in a moment, is we've essentially taken a photo from both the north side of the site, or as if you were traveling southbound on 9W looking at the site at a 45-degree angle, and then also mimicked that as well on the south side of the site, if you were traveling on 9W looking at the property north. What I'll do is I'll put a couple up here and a couple towards the back of the room as well. There are two views. That represents one. What these also show, they show the building as I've described it and they also show a couple design features that we've incorporated into the site plan.

Most notably I'll start with the view as if you were traveling on 9W in a northbound direction and the property is on your right. You see the building towards the center of the page, the brick structure as described with the shingled roof? In this view the canopy, which would be on the north side, is on the far side of the building.

In addition to the architectural features I've noted, we have proposed what's identified as a monument-style identification

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sign for the gas prices. Typically for a gas station you'll see a normal pylon which is a steel post with a sign up twenty or thirty feet in the air which is -- has its purposes on more of a highway setting, this being more rural in nature. What we've done is we've taken that sign and made it into a monument-style sign so it's much lower, and it has a stone base towards the bottom of the sign. In addition we've proposed, based on the direction of your design guidelines and the Board professionals, stonefield walls along the frontage. That's what you see there in the forefront. The purpose there is obviously as a design feature and also to provide a break between the Route 9W roadway and the parking lot.

It provides that visual break in terms of being able to see those cars, and it puts a design feature at the forefront of the site to help with that street scape idea along Route 9W.

Of course we have a variety of trees along the frontage and shrubs on the interior of the site to help block headlights.

Similarly, this is the opposite view. So this would be southbound 9W, the site being on

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QUICK CHEK

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your left with the canopy more in the forefront here. What you'll see again is the elements, the brick columns on the canopy and the shingled roof which we think dresses up that gas station a lot more so than many of our competitors. Again you'll see the identification sign. In this view the building is more to the background with the driveway here towards the right of the page. Again, there's another screen wall along the driveway, a fieldstone wall. You'll see right here in the background those additional fieldstone walls as you're traveling south on 9W.

In terms of some of the other items, I'll just quickly mention, I know we have some people here, some future neighbors in the audience. The property, as you know, today sits low, much lower than Route 9W. It sits in a hole more or less, and it's actually significantly lower than everything around it. 9W is six, eight feet higher, the properties to the rear, to the east side, are thirty feet, some even higher than that with this wooded area to the rear of the parcel in the R-3 zone which we're not proposing to develop anything within. Actually,

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it's a steep grade incline up from our property being low, the properties to the east being higher. Similarly, although not as drastic, the properties to the south sit anywhere between six to eight to ten feet higher than our property as well. What we are doing is we are filling the site modestly what I would say. We're bringing it up a couple feet. We still will be several feet lower than Route 9W. We're not bringing this site up higher than the road. We'll actually still sit in some cases six, seven feet below the road along our frontage.

What this does, and the reason I bring it out is I think it's important to note that in relation to the properties around us, because of the fact that we sit lower and our buildings are relatively again modest in height, our canopy, the bottom sits at fourteen feet, the top would be -- or fourteen-and-a-half feet. The top would be at approximately twenty feet when you add that roof structure in. The building itself is approximately twenty-four feet, the convenient store. Our light poles are only at sixteen-and-a-half feet. Again, those are

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relatively low, not the thirty-foot lights you would see at a Target or Kohl's or a major shopping center. These are relatively low lights to provide the lighting on our property. We have no spillover into our neighboring properties in any direction. Because of those low lights that really don't have much of a throw, they're relatively concentrated. That's a way to control it as well. All the lights being utilized are down-lit lighting. What that means essentially is if you picture the bottom plane of the light, everything is directed downward. The light has a housing shield or a housing component above it that prevents light going into the air. In the engineering world it's commonly referred to as sky glow but essentially the older model lights that were used in commercial facilities often had a presence from off-site properties because the light fixture itself was either pointed up or didn't have any component above it to block it. In this case we're utilizing all down-lit lighting. Under the canopies everything is flush to the bottom of the canopy and it's down lighting. That's important to note because as

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QUICK CHEK

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you drive on the roadway, a lot of times what you would see in canopies at old gas stations is the light actually looped down under the face of the canopy and you'd see that bright bulb. Again, these are flush and all the lights have what's called a diffused glass over them. So that does two things. One, it prevents glare. Because you have that diffused glass you don't actually see the lighting element, you just see the glaze over it. It also helps to distribute the light more evenly as we viewed it if we were out of our car and on the site.

That essentially concludes our presentation. We do have Mr. Chuck Olivo here from Stonefield Engineering, the traffic consultant who is managing the DOT application with this and has provided a comprehensive traffic study associated with our application. We have Jeff Albanese and Bob Lario here from Quick Chek as well.

We're happy to take questions from the Board or the public at this time.

CHAIRMAN EWASUTYN: At this point I'd like to turn the meeting over to the public. As

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QUICK CHEK

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Mike Donnelly had said earlier, please raise your hand and give your name and your address for the Stenographer.

One thing Mike didn't discuss in his opening is what we'd like to do is acknowledge everyone who has a question and to give everyone an opportunity to speak. If there is someone who has a second question, please allow those who haven't had a chance to speak the opportunity to speak first. Thank you.

MR. HESSARI: My name is Frank Hessari, H-E-S-S-A-R-I. I have a business at 5306 Route 9W, Newburgh. I'm in the same petroleum business for the last twenty-one years. I just had a question. I happen to see the 9W and the DOT issue. Is there a left-turn lane for the site?

MR. MARTEL: Yeah. Not currently but we are proposing the left-turn lane depicted on the plan to facilitate the left turn into the site.

MR. HESSARI: And that will come with a light?

MR. MARTEL: There's no traffic light proposed.

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QUICK CHEK

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MR. HESSARI: So if they are waiting for that left turn, you know, what is it that is going to prevent the cars from rear ending them? I mean besides the lane.

MR. MARTEL: It is the lane. What happens is you have a turn lane that's eighty feet full width, and what that does is provide the ability for a customer traveling south to pull into that left-turn lane where he's protected and all the through movements can continue on unobstructed.

MR. HESSARI: Is there a possibility of the light in the future?

MR. MARTEL: It's not under our control to be honest with you. We did discuss with the DOT the possibility of a light there. The DOT has reviewed our traffic study, reviewed formally a signal warrant analysis as part of this application and they -- as it's their roadway and they have jurisdiction, they have decided a light is not appropriate. But again, that's something out of our control in terms of what the future will bring.

MR. HESSARI: Thank you.

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QUICK CHEK

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MR. RINALDI: James Rinaldi,
R-I-N-A-L-D-I. I think perspectivevely we might
wind up neighbors. I own the building across the
street. At any given day we have between fifteen
and forty tractor trailers which are seventy feet
long pulling in and out of there. All tractor
trailers on Route 9W southbound or northbound
have to ingress into the opposite lane to make
any turn. I'm going to assume that you're going
to have -- your gas station will have fuel oil,
and I think your gas will be transported in a
large unit, a large tractor trailer type unit.
Your units, my units, the units that are going to
come in and patronize the company, if there's a
little bit of a turn there -- traffic moves very
quickly there. I know, I've spent fifty years on
that road. It moves very quickly. You can't
even get in and out with a car now at any given
time, prime time morning and night. It's bumper
to bumper, they're aggressive drivers, they want
to get home, they want to get to work. It's just
-- you know, I don't know what to tell you but I
just think it's going to be a mess and it's going
to jeopardize my business and my insurance. A

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QUICK CHEK

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lane that will receive eighty feet will receive one car and one tractor trailer, you know. I understand. Go ahead. I know it's a beautiful building but that's -- I don't know.

Furthermore, excuse me, but if you're only going to raise the facility -- I looked at that facility one time and it needed at least twelve feet of compacted material, okay. If you're only going to raise it two feet, I see that the topo to the driveway is going to have an inclination to it. I mean from eight feet in, so many feet of driveway is -- I see it as a problem. When the cars come out the headlights will be aimed up towards the ceiling -- the sky I mean, not the ceiling. Excuse me.

MR. MARTEL: A lot of points were made. I'd like to address them in the order you made them. First of all, I can't speak to your facility because I don't know your operation. In terms of --

MR. RINALDI: Let me just explain it to you and then it will be easier for you. We move in and out, okay. We have one driveway. We move in and out. We have southbound traffic and

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QUICK CHEK

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northbound traffic at any given time. Whether we come in or whether we go out we have to cross over in the other lane like every other facility on Route 9W, whether it be Stewart's, whether it be the convenient store, whether it be the Freightliner truck dealership or my place. I mean that's just the way it is. The road is too narrow.

MR. MARTEL: Well, two things. One, we are proposing to widen the road, so that will facilitate your movements. Again, I'm not going to speak to your operation directly because I don't know enough about it to speak intelligently.

Our proposal as far as our development and the ability for trucks to enter into our site, we have done a detailed analysis of the truck turning movements. We do have WB-50 trucks deliver to the site, both for the food store as well as the gas trucks. We will have normal gas trucks enter the site to make their deliveries.

What we show here is the ability to make a right turn into the site and make a left turn out of the site, the reason being all of our

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QUICK CHEK

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deliveries are expected to come from the south. What you'll see is that we don't go into opposite lanes of traffic. We are expecting approximately one gas delivery a day, approximately one tractor trailer to deliver to the store a day. So we'll have two trucks on our property over a twenty-four hour period. So there really is minimal truck traffic on our site.

What we do have is the ability to make the turning movements. We have identified both a fueling zone and loading zone so the truck has a place to park on the site so our operation can still take place effectively.

In terms of some of your other concerns, I do think by virtue of the widening of the road and with the extra turn lanes and shoulder that we're going to put on, your vehicles will have more ability to make those movements in and out of the property. A large portion of how a truck enters a site and how he makes that movement, really two things that come into play -- three I should say. The width of your driveway, the radius of the driveway on the curbs and, three, the width of the roadway. I

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QUICK CHEK

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can't control the radius on your driveway, and from the survey you really unfortunately do not have any. What we're proposing is thirty-foot radiuses on our driveway. That allows the truck to facilitate the movement into the site with the additional width. Again, that movement is made safely and within the confines of the lane that that truck is supposed to be traveling in.

In terms of the driveway across the street, you should look into the radiuses of the driveway and if possible you can probably make some improvements there to help facilitate your movements.

As far as our driveway, it's under DOT review. We did our analysis. The professionals have seen our geometry. With the width of our driveway, which is a full thirty-nine feet, those movements will be facilitated appropriately.

MR. RINALDI: How wide is the road now shoulder to shoulder? Less than thirty feet, isn't it?

MR. MARTEL: The road itself is a total of -- it's wider. It's almost about forty feet.

MR. RINALDI: Almost forty feet?

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QUICK CHEK

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MR. MARTEL: From shoulder to shoulder.

MR. RINALDI: Again, it has significant shoulders on each side. Between the stripe to stripe you're looking at twenty-four feet plus or minus twelve-foot lanes. You have large shoulders beyond that.

MR. MARTEL: The proposed road width along our frontage right at the driveway is proposed to be approximately fifty-two feet. So we're adding almost twelve feet of width. Why we're doing that, again, is to provide that left-turn lane and that right-turn lane and maintain the shoulders. You're getting a about twelve foot additional.

MR. RINALDI: It looks to me like your driveway, your ingress/egress runs parallel to the pumps, and it looks to me like -- are you going to solicit fuel for large tractor trailer type vehicles?

MR. MARTEL: Good point. We do not. We only have low-flow diesel. We don't have the ability to service tractor trailers. We're not enticing for tractor trailers and we're not known for tractor trailers. None of the facilities

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QUICK CHEK

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Quick Chek has straight across the board operate or service tractor trailers. We're not known as a truck facility. We only do low-flow diesel which is the seven to nine gallons a minute, the same as your passenger cars. A tractor trailer facility with a flow of thirty to thirty-five gallons a minute with the ability to pump on both sides, because tractor trailers have larger tanks and the ability to fuel on both sides. So no, we do not.

MR. RINALDI: I'll stay and keep listening.

MR. HINES: I just want to clarify. The fill numbers of two feet and such are not correct. The fill at the entrance drive is approximately seven-and-a-half feet and about four feet in the center of the site. The site is being raised up.

MR. MARTEL: I think I said three to four. The gentleman did say two feet. The driveway, again the maximum slope there, as Mr. Hines said, they filled the driveway because we need to make the transition right now where it drops six, eight feet rather sharply. So we have

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QUICK CHEK

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a driveway that essentially slopes to make up that change in grade. The maximum slope on there is only five percent. For the most part it's more like two percent. So it's not a steep driveway, it's not something you're going to really feel a ramp, something like that where you would, you know, have a concern with either entering the site or exiting the site. It's modestly sloped, five percent maximum. Really the grade change along the driveway is approximately three feet down and the building is approximately another two feet beyond that.

CHAIRMAN EWASUTYN: Thank you.

There was a lady standing there.

MS. CARDONE: Grace Cardone, 7 Echo Lane. Could you discuss drainage in the southwest corner?

MR. MARTEL: Just to clarify and make sure we're on the same page, southwest meaning southwest --

MS. CARDONE: South.

MR. MARTEL: Where exactly?

MS. CARDONE: Right there.

UNIDENTIFIED SPEAKER: I think we're

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QUICK CHEK

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talking about right here.

MR. MARTEL: There is a ditch coming through the property from south to north.

MS. CARDONE: That has been blocked off by the previous owners causing flooding on the property on the other side.

MR. MARTEL: Two things. Okay. Let me just explain for everybody's understanding so the whole room understands. The ditch, which I understand may have some blockage now, essentially comes from the south, it enters in through a twenty-four inch pipe and that pipe is discharged on the north side of the property. That's relatively a shallow pipe. I think it's a corrugated metal pipe that essentially was done for the drive-through movie theater so they could park cars on top of it. We're proposing to actually reconstruct that pipe with the normal reenforced concrete pipe. We are proposing to maintain that ability for drainage to go through.

In terms of any particular blockages, we can certainly work with you to remove that. I don't know what it is in detail you're referring to but our intention is to allow drainage to

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QUICK CHEK

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continue through to the property to the north side. That will be a new pipe that we will be constructing, so we'll have a pipe we can rely on in terms of integrity. Right now I think it's broken in a couple places, and that might be adding to the blockages you're referring to. But that would likely be allowed to flow more freely after our development.

The Town of Newburgh has asked us to grant an easement, because I understand that may not be the only area of concern on this property in terms of how the property drains today and how it impacts neighboring properties. The Town has asked us for an easement and the ability to come through and possibly regrade some areas to help drainage flow as it comes off neighboring properties towards ours. Quick Chek has stated they are acceptable to that, and whatever improvements the Town wants to make to help out the neighboring properties. So we will allow the Town to come on our property and make any adjustments that they see fit to help facilitate the drainage. There may be an isolated blockage. We can certainly look into that. If there's

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QUICK CHEK

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something we can do and it's on our property, we're happy to improve that as part of our development, because of course our goal is to maintain that through movement of stormwater from the south to the north.

CHAIRMAN EWASUTYN: Pat, do you have any comment on that?

MR. HINES: We concur with that explanation. The majority of that large diameter pipe that's currently leading through the site and relatively flat is proposed to be replaced.

During the review we also requested that they relocate the drainage swale around the sanitary sewer disposal system to move that further into the site. They were originally going to discharge that right at the existing headwall. That's been brought further into the site and into the new replacement pipe to service that area.

We will, during the construction activity, also take a look at the small piece of pipe that's proposed to remain to make sure that that is functioning correctly so that there will be a positive drainage flow from the south side

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QUICK CHEK

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of the site to the north end of the site.

The portion the Town is interested in is actually on the eastern portion of the property. The Town has drainage concerns east of the site and is requesting an easement from the project sponsor to be able to discharge flow from the residential area east of the site onto this site and then down through the natural drainage course through the site. So the Town is investigating that, and the project sponsor has indicated that they are willing to work with the Town and grant that easement. The Town attorney is working with their representatives right now.

MR. RINALDI: Excuse me.

CHAIRMAN EWASUTYN: Excuse me. Do you remember we said in the beginning of the meeting --

MR. RINALDI: All right. I forgot.

CHAIRMAN EWASUTYN: You're like me.

MR. RINALDI: You get old and you get flashbacks.

CHAIRMAN EWASUTYN: It goes in one ear and out the other.

The gentleman in the back.

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QUICK CHEK

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MR. CARFORA: My name is Gene Carfora, 215 Cherry Lane. My property is on that buffer zone east of the Quick Chek.

A couple of questions. One I wasn't planning to ask but your comment about the easement and the drainage on the eastern property interested me. Can you talk in a little more detail about what's going on? As far as I know there's been nothing going on for the forty years I've lived up there as far as the drainage goes. I'm interested in that.

I have other concerns. You've addressed some of them. The buffer zone you're talking about, do you plan to do anything with that or leave it as is or relandscape it?

MR. MARTEL: All the vegetation is proposed to remain. We have landscaping immediately adjacent to our property in terms of trees and some shrubs. In terms of the existing buffer that remains to the east, that's proposed to remain intact.

MR. CARFORA: You addressed some of the other concerns I had about the light.

Is Quick Chek a 24/7 operation?

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QUICK CHEK

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MR. MARTEL: Yes.

MR. CARFORA: It is. In light of recent events maybe you can talk in some more detail about your fuel tanks and storage. You made a comment and left it on the basis that it conforms to State and whatever -- all the regulations involved with underground fuel storage tanks. My question is this: When the fuel tanks rupture and spill thousands of gallons into the ground, what's the plan for when they rupture?

MR. MARTEL: Well, I wouldn't characterize that question as a when. What I would say is in terms of what we do to prevent potential spills is we do have double-walled tanks. What that does is it has an inside wall and an outside wall. What happens is you have monitors called interstitial monitoring between the two walls of the tank. What that does is, A, if there's a rupture on the inner wall of the tank by virtue of something happening there, there is an outer wall of the tank. What that monitoring does in between is essentially while the outer wall is intact it monitors that and

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QUICK CHEK

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alarms go off in the property or at the station. In addition, if there's a puncture on the outer wall, the same thing happens. It essentially monitors moisture. Any groundwater or anything that's allowed to enter into that tank would set off that alarm.

In terms of going forward from the tanks out, there are a series of monitors at the top of the tanks for the purpose of filling the tank when the tanker truck comes in. There's all sorts of sumps and containment areas and safety measures there all with monitoring abilities. When we go from the tanks out to the fuel pumps, again it's double-wall piping all back pitched back to the tank. Again, if for some reason that inner wall of piping, there is an issue, it would be picked up by the outer wall and it's by gravity sloped back to the tank. What happens there is that line, the interstitial isn't monitoring because it's not possible, to be honest with you. The way that's monitored is that goes back to an area that is monitored in the sump. So if you do have that leakage in the inner wall and it's allowed to gravity back ,

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QUICK CHEK

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it's then contained in an area, a pretty significantly sized area, and that alarm would go off so you would know okay, I have a problem with my fuel piping and you can address it.

At the pumps again there's sumps with monitoring, there's sheer valves, cut off valves in terms of the hoses. If you drove away hypothetically with the hose in your car, it actually shuts off in two places. It shuts off right at where the nozzle would come out, there's a sheer valve there, and then there's a sheer valve again where the pump or the hose is attached back to the pump. So both shut off simultaneously. You would have that cut off because there are several gallons that are in the hose itself. If it only shut off at the pump you could potentially discharge what's in the hose.

In my opinion -- our office works with a lot of different gas stations, both, you know, large brands and smaller brands. Quick Chek, I get a sense of safety from how they operate their site is they monitor both locally at the facility and at their corporate headquarters. It's a private company, there's no franchises, so

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QUICK CHEK

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they're all owned by the company, by the family company that has it. Again, you get the monitoring locally so you have a trained staff locally. If for whatever reason somebody ignores their responsibility at the station, you have the ability to monitor corporately. So you have a corporate set of eyes on all the various safety mechanisms, the brains of the operation which sense how much fuel is where and what monitors are potentially detected and what isn't. There's a redundancy in terms of the safety features.

There's been a lot of advancements in the regulations associated with gas stations. A lot of times we, in our minds when we think about gas leakages, we have old tanks that have been grandfathered in through the years, single-walled tanks, tanks with limited monitoring, et cetera. With the current regulations, both State and Federal, we use the term meet and exceed because you're not required to have double-wall tanks, you're not required to have monitoring in all the different areas I've stated. But those products are available, and prudent judgment in terms of your investment in this property from Quick

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QUICK CHEK

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Chek's standpoint is let me get the best that's on the market. Again, it's a private company so it's not motivated by anything other than being successful and being, you know, responsible in their development in terms of preventing any potential issues to occur in the future.

MR. CARFORA: Thank you.

CHAIRMAN EWASUTYN: Pat, do you want to speak a little bit further?

MR. HINES: In addition to what was just explained, the DEC regulates these sites as petroleum bulk storage facilities, and they have a periodic testing requirement where the monitoring systems are checked, the interstitial space and the piping is all checked. I believe it's annually that that has to get done with a facility such as this, and reported.

MR. MARTEL: You have to be in a region with a very diligent DEC representative and he's probably more than annual, a gentleman by the name of Mr. Bendell I think it is. So you do have a very responsive DEC agent who does oversee this region. Quick Chek has been working with him for the last four years and he has taken an

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QUICK CHEK

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active role with Quick Chek in terms of, you know, the monitoring with that. They are out there. They do inspect. At the time of installation You have to register with them. It's a detailed process, more so than a lot of the other neighboring states in terms of registering, inspections on the spot. They won't allow you to actually put any gas into the tank until you've met certain hurdles, certain testing requirements, and then they have follow-up monitoring, both documents that have to be filled out by hand so you're not completely relying on the computer as well as the redundancy of the computer printouts that are required, and those are daily reports that are required. Those are all kept by staff and then duplicated at the corporate headquarters as well, and DEC monitors that as Pat said.

CHAIRMAN EWASUTYN: I think we talked about it somewhat, but you mentioned Mark Taylor and the Town looking at drainage. One more time, Pat.

MR. HINES: Not related to this project but apparently the Town is aware of some drainage

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QUICK CHEK

issues at the intersection of Cherry, and I believe it's Linda --

MR. MARTEL: That's correct.

MR. HINES: -- which loops around both sides. So it would be the southern portion of Linda that there's a drainage issue. It has to do with the topography of I believe your residence and a couple others, it drops down and comes back up. Knowing this project was here and we had the opportunity to get that easement, we've asked the applicant to provide the easement. The Town is not necessarily sure where the drainage improvements will be but they're aware of the drainage issue to the rear of those properties, so we wanted to take advantage of the applicant being before us to get the easement so when the Town does get funds to do the improvement, the real property that's Cherry Avenue, they'll have the ability to drain that water onto the Quick Chek site and then down through the stream.

UNIDENTIFIED SPEAKER: Via our properties on Cherry Lane or going down Echo Lane?

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QUICK CHEK

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MR. HINES: Via the rear properties of Cherry Lane. I don't know which property they're looking at. Apparently there's a ponding area to the rear. I'm not familiar with it. I don't know if the town engineer himself was. We took this opportunity to make sure we had the ability to do that in the future, to alleviate that ponding to the rear of the properties and bring it down to this site and ultimately down to the existing drainage course. That's the purpose of the easement.

MR. CARFORA: Thank you. The last comment that I'd like to make, it's just about the traffic situation. Without Quick Chek the traffic situation is impossible, as most of you know that travel that route, making left turns or right turns at the height of the traffic. So like I say, with or without Quick Chek that problem needs to be resolved. I'll leave it up to you guys to look at that.

CHAIRMAN EWASUTYN: Ma'am.

MS. MATTHEWS-FORBES: Joanne Matthews Forbes, M-A-T-T-H-E-W-S F-O-R-B-E-S. My husband, myself and our family live at 9 Echo

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QUICK CHEK

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Lane which is immediately south of the proposed Quick Chek property. Mr. Martel, nice to see you. I had a nice conversation with Mr. Martel and he answered many of my questions. There are some concerns I have, my husband has, my neighbors have that we would like addressed by the Board.

I don't necessarily have a problem with the Quick Chek being there but I don't want to know it's there. That's my biggest concern and that's what I expressed to Mr. Martel.

My biggest concerns are mitigating any kind of intrusive sound, light, noise and access. Having said that, I just wanted to ask Mr. Martel, these pictures, these proposed pictures are lovely, as is that site plan. May I ask where these trees came from? Is this Google Earth? How did you get these trees there? I can tell you these trees don't exist. My property, which is directly south of the Quick Chek property, I can see from my property right down to 9W. So this vegetation that's pictured here, I would love it to be there. If it's there it alleviates many of my concerns. But there are

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QUICK CHEK

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some evergreens there. There is some brush. There is some trees that aren't nice in any way. But this foliage that's depicted on this picture, on that picture and on all the pictures simply doesn't exist. I would love it to. I wish we could get more trees. I think that's probably a much more realistic view. So the lack of foliage is a big concern for me. I would love to see the property lined with evergreen bushes, evergreen trees, because again, while these trees depicted here maybe are slightly more lush in the summer, in the winter months, which as we know in the Town of Newburgh exists a very long time, those leaves do not exist. So as far as we're concerned we would really like to see much more plantings surrounding the property to block the view. That's with regard to the site.

My second biggest concern, there are many families with young children on Cherry Lane, on Echo Lane. My understanding, and I remember as a child, I grew up in the Town of Newburgh, I grew up in Meadow Hill, I remember going to the drive-in, and my understanding from my neighbors is when that was a drive-in the traffic through

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QUICK CHEK

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our properties walking across our properties at all hours of the night to get to the drive-in was nonstop. That's a big concern for me. I don't want people cutting through my property. I don't want people cutting through my neighbors' property. I don't want people cutting out of Quick Chek to get through my neighborhood, especially in light of, let's all be serious, we all know the type of element that sometimes exists on 9W. I don't want those people coming through my property.

One of the things I would like to see is the entire Quick Chek property, perhaps on the property edge, some type of fencing that can't be penetrated. I don't want people crossing into my yard where my children play, and they're very young children, because they want to go get a beer from Quick Chek. Those are my biggest concerns.

I appreciate that the light does not ambient up. Does the light structure you're proposing ambient out? If they do ambient out, how much do they ambient out?

MR. MARTEL: They do. Obviously

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directed downwards but they have a certain radius around them. They're intended to do that. They're intended to light the parking lot. Probably the best way to answer that is they only ambient out approximately twenty feet beyond our curb lines. So your property I believe, Ms. Forbes, is about two hundred feet from our parking lot, lot 6.1, and the lights end approximately twenty feet beyond the parking. So about a hundred and eighty feet from your property in terms of the actual light spill.

In terms of the rendering itself, you're looking at a view that's probably difficult to -- you really want to see the other view. You're looking at this view but you really want to be looking at that view. Of course we didn't prepare that rendering. You're looking at a variety of the proposed trees in the forefront as well as some of that existing vegetation to the rear. We're primarily relying on the size of the property to help it buffer the neighboring properties. We have, like I said, approximately two hundred feet between our property and your property. We will be in compliance with all

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noise regulations. We have proposed noise walls on our HVAC equipment which are probably the single highest source of ambient noise because they will be running all the time. That noise is actually captured within a screen wall, an acoustic barrier which mitigates it, and will ensure that it's not heard off the property.

In terms of the property itself and your ability to see it, you know, I think -- I understand your concern that during the winter and the bare months, that that visibility is probably a lot more direct than it is in the summer months and what have you. Again, we can work with something. We don't want to put an entire wall around our property, or a fence. I don't think that's needed to be honest with you. Quick Chek operates, you know, a hundred and something facilities, a hundred and twenty something facilities.

In terms of the walk-up people from surrounding neighbors, I've never heard that concern ever at an existing Quick Chek where somebody would want to get to the Quick Chek from a neighboring road and use a property as a cut

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through. I think the movie theater to me was more of a destination, more of that type of use where you might walk there and see a free movie if you didn't drive in. We don't expect a lot of people to be walking from the neighborhood into our facility. It's primarily, you know, going to be customers and cars. I don't see that being that significant of a concern but, you know, that cut-through could be prevented with a fence on your private property as well. If that were to happen or we did see that, we might be able to mitigate it in the future. We can look to possibly enhance some of the buffering between that property, you know, maybe with some well located evergreen trees to help supplement that screening between the properties.

CHAIRMAN EWASUTYN: This gentleman.

MR. FORBES: I'm Richard Forbes, I also live at 9 Echo Lane. A couple things in relation to the matter of access for the property, and also to comment on the traffic coming through. It all relates to that intersection of Old Albany Post Road and 9W. It's bad. It's really bad. Quite frankly, I really can't imagine anyone from

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QUICK CHEK

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the neighborhood to the south or the north
wanting to walk onto 9W to get to your property.
However, what I can tell you is even with nothing
there now people walk through these areas to get
to the property. They already do and there's
nothing there. So I totally disagree. There's a
number of people in the neighborhood who are
constantly out walking dogs, pets, children. I
think your site is a natural destination because
it offers a lot that quite frankly isn't within
walking distance otherwise. To me it's very
problematic in that to get through that little
ugly triangle of Albany Post Road and 9W, it's
hard to imagine they wouldn't want to get through
7 Echo, 9 Echo, my neighbors to the north. It's
really hard to imagine it wouldn't happen that
way.

On a related note, my other concern
that I haven't heard or thought of until we came
was you talk about as you come down in a
southerly direction on 9W you're going to create
a left-lane turn to turn into your site. Correct?
Okay. There's already a left turn onto Albany
Post Road which is very commonly used by just

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QUICK CHEK

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about everyone who lives there, and a lot of people who don't, as a way of cutting kind of around the horror-section of 9W to get to the City of Newburgh, to get to the Newburgh waterfront. So my concern would be if you're there on the average day right in front of that section where the Suzuki dealership is, there's already a couple cars backing up. Now you've got your lane. If you want to make that left turn onto Albany Post Road, and I'm not a car person, I would imagine they have to come around and get in line behind the right -- let's say I want to turn into your place. I stop at your place. What if someone else wants to get onto Albany Post Road, they have to come around your turn and the squeeze in. Quite frankly, given the volume of traffic that's already there, it's hard to imagine that working very well absent the light.

MR. MARTEL: I mean the striping is depicted on this plan. The left-turn lane on Old Post will remain intact. This is a pretty significant separation, in excess of three hundred feet between our left-turn lane and the intersection of Old Post Road. Accordingly,

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there's that same separation between the left-turn lanes. So the decision to make a left into the Quick Chek comes well before the decision to make that left into the turn lane at Old Post, and it is separated by a portion of striping so it's not one contiguous left-turn lane where you might be confused and get in this lane accidentally meaning to get into the Old Post Road lane. They're two distinct lanes separated adequately and spaced adequately. So I don't think that confusion in terms of which lane you're in or the ability to stack cars and be able to make that left into Old Post Road are impacted.

MR. FORBES: I understand they're separate. My concern is since they are separate, the ones coming to make the left onto Old Post have to go around your lane now to get in line to get onto Old Post.

MR. MARTEL: The striping is dictated by the State, and obviously it's a very, very specific code and it won't be -- you won't have the feeling on a road -- you probably encountered this a million times without knowing that you have to go around our left-turn lane. It's

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simply that the through lane goes through and you have your unobstructed ability to go through. You actually have to make the left into the left-turn lane if you want to go to the Quick Chek. The way the striping is, and the State obviously has been doing this, DOT, for how ever long, understands the proper tapering of the left-turn lane and the ability so you don't have abrupt changes in traffic patterns. They have certain lengths that these taper lanes have to be. So that the thought of having to go around the Quick Chek to get to Old Post, I disagree with that.

CHAIRMAN EWASUTYN: Ken Wersted is the Traffic Consultant for the Planning Board. Ken.

MR. WERSTED: There's two points that Mr. Forbes brought up that I would like to clarify. The first is about walking through the neighborhood to get to the site. More of a recent addition to the project in the last month or two was a sidewalk in front of the site which would extend down towards the southern end where the property line is which would allow to you arrive to the site basically on 9W without having to be in the road as you would now. People right

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QUICK CHEK

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now, they walk along the shoulder. With the widening, that's going to use up a lot of shoulder. We requested some type of amenity be put back to accommodate anybody walking in that area. So the sidewalk would essentially connect from that Old Post Road intersection and bring you up to the Quick Chek driveway, and that would help facilitate somebody who was walking from the neighborhood not to cut through someone's backyard, and basically gives them an opportunity to come out to 9W safely and walk.

MR. FORBES: And it runs all the way to --

CHAIRMAN EWASUTYN: Let him finish with his second question.

MR. WERSTED: It runs all the way up to the site driveway and then it continues to the edge of their property line so that the northern end of the property -- there's no landmark there but to the northern edge is where it would terminate and connect back to Route 9W.

The second point regarding the left-turn movement, if you envision or visualize traveling south on Route 9W, you're essentially

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QUICK CHEK

going to stay in your lane. If you're going to Quick Chek you're going to move out of that lane into the left-turn lane. If you're going to Albany Post Road, you'll stay in the same through lane, you'll go past the Quick Chek entrance and then you'll pull left into the left-turn lane and pull into Albany Post Road. If you're destined for Newburgh, you'll stay in your lane, there won't be any deviation, you'll continue through the intersection of Albany Post Road and south into the property.

MR. FORBES: I just have a question, or response for each. On the issue of walking the properties, my understanding is there was an entrance in the rear of the building. Not the north side, the south side. There's an entrance?

MR. MARTEL: Correct.

MR. FORBES: I guess there's parking in the rear of the building and therefore people need -- my concern would be obviously the entrance in the rear is even more enticing to people looking to cut through the property. I mean I don't know if that is the --

CHAIRMAN EWASUTYN: The entrance in the

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QUICK CHEK

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rear is for the public or deliveries?

MR. MARTEL: The rear -- let me clarify it. North there's an entrance, south there's an entrance on the right side, the left side. On the east side opposite of 9W is loading. There is an entrance on the south side, an entrance on the north side.

MS. MATTHEWS FORBES: Which will be well lit and light our property.

MR. FORBES: My concern obviously is it's just a natural way for people who are cutting through properties to get into Quick Chek.

And then my other question was about the issue of the turning. If I understand, right now if someone wants to make a left onto Old Post, fine, the car will go around to the right. However, if I understand correctly, and maybe I don't, with the lines you're talking about putting in, will it be possible for people to pass someone turning into Old Post Road on the right anymore or will that be --

MR. WERSTED: Yes. To go straight down Route 9W you'll pass by someone turning left.

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QUICK CHEK

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There will be two separate lanes. So someone turning left into Albany Post Road will not block someone traveling through and will not result in somebody who wants to go through to have to move onto the shoulder and drive around.

MR. FORBES: Thank you.

CHAIRMAN EWASUTYN: The lady with her hand up.

MS. BIRKENSTOCK: Michelle Birkenstock, 219 Cherry Lane. If I could, I have some visuals with me, some pictures of the area properties. Would I be able to bring my laptop up to the desk to show it to the Board and the members here?

CHAIRMAN EWASUTYN: Go ahead.

MS. BIRKENSTOCK: Thank you. To start by piggybacking on what Mr. Forbes had just said, and it's not something I actually thought of before but having seen the plans and hearing your argument and knowing that it's true, your south side of the property there is much less vegetated than it is on the east side of the property. If I'm seeing this correctly, this is all parking that's over here on the south side. When people pull into Quick Chek they're going to be pulling

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QUICK CHEK

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in and their headlights are going to be heading right into your properties. I'd be concerned about that if I lived on Echo Lane. That wasn't something I had thought about before coming here this evening.

The Board can see this okay I hope. There's some visuals that I think you would be able to appreciate.

A brief background about myself is my husband and his family owned a gas station for thirty-five years, and there are some great precautions that have been made, provisions that are going to be done, however there is a human error of -- element of error that has not really been accounted for. There is always the worst-case scenario, and the impact is usually on the environment. The double walls on the tanks sounds wonderful in theory. The alarms sound wonderful in theory. What they're not telling you is that there is an actual amount of spillage that is acceptable into the environment. There's a certain percentage that's okay. It won't set off the alarms. It won't say you know what, there's something going into your neighborhood

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QUICK CHEK

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drinking water and it needs to be stopped. It might be minute but it's there. How long is Quick Chek going to be there? How long are our families going to be there? It all accumulates over time. So we have an environmental impact that needs to be addressed.

There's the impact then on personal health, on the traffic as we talked about.

Something that wasn't so much talked about was the crime level, and then also the necessity of Quick Chek being there. We'll get to that.

And then the value of the surrounding homes and properties I really think are going to depreciate because all of these things that we're talking about.

There's underground contamination with environmental impact, there's air contamination, there's light pollution and even sound pollution.

Gasoline additives are added to gasoline to take the knock or ping out of your drive. It used to be MTBE but in 2004 New York State had banned the use of MTBE, and if I'm not mistaken now it is ETBE that is added to the fuel

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right now. It is a better alternative but it's not necessarily a safe alternative. With leakage it is -- let me clarify that that's an ethyl --ethanol additive, and the ban came because of carcinogens being evident in MTBE. Again, ETBE is an ethanol based fuel additive. In 2009 the Integrated Risk Information System, which is a department under the EPA, but out a 335-page report on ETBE. They start out by letting us know it's a liquid that like water is colorless. We're not going to be able to distinguish it differently from water on the ground. The odor is similar to varnish known to give headaches with its vapors, and the taste of ETBE, which I don't think any of us would want to find out for ourselves, is classified as objectionable. The environmental objections surrounding fuel additives is related to ETBE's high solubility, which means that it can enter groundwater following leakage or spills. Subsequently there's a potential risk to drinking water or bathing and showering water with exposure. A lot of the properties I don't think have -- in the surrounding area haven't turned over to Town

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QUICK CHEK

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facilities. Some have but a lot of them are well water. I think that needs to be addressed.

This is the light pollution that we're talking about. This picture here was taken last night. It is a southwest view from our property and it's heading towards like North Plank Road. You can see the light emanating from the metropolis that's in that area. That's about two-and-a-half miles away from us.

This is more directly in line with the property. It's approximately from here back that you're seeing. It's significantly darker.

Now, there's a lot of squawk about the actual entrance, and this might actually coincidentally depict the actual entrance point that is proposed. This is a picture from the Balmville Plaza looking at the drive-in property. There's a guardrail that's there, and you can see the land does depress and then it goes up. In the picture that you had provided I have noticed some of the trees might have been cut and pasted in there, but it looks almost in your proposal of that handout that you had that they're level with the rest of the property, and that's a great deal

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QUICK CHEK

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to have to fill in. There would make the light fixtures that much closer to us up on the hill, to our friends who are on Echo Lane. It's not in this depressed area where it's in its own cocoon almost. It is now being raised up and will emanate even more.

 This one is actually a video. This was taken two nights ago. One of my major concerns is with the light and the sound pollution. Right now we're able to sit out with our children and our families in our backyards and we have our fire pits going, we look at the stars and we hear an occasional car at night going by, but we also hear nature. When you have a gas station, as I can tell you from firsthand experience, you have teenagers that are coming in all excited with their drivers license, coming in to get their gas, going in, 21 year olds trying to go in and get their beer or whatever. They leave their cars running, their music blaring, and I think that that's going to have a bigger impact than what I think is not really even being addressed is car noise like that. You are all very quiet. I don't know if you'll be able to hear that. If

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QUICK CHEK

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I can get it to cue. I apologize, it's not going. It was birds chirping. That was all you could hear, and an occasional car. I think that that needs to be considered.

Going back to the impact on personal health. We're going back to the ETBE additive that's in fuel right now and the toxicological review of ETBE provided by the IRIS Department which is under the DEC states that adding ETBE to gasoline may increase the emission of something called acedelyhide. Sorry if I said that wrong. Long-term exposure of this has been shown to increase the risk of cirrhosis of the liver and multiple forms of cancer. Again, we're talking vapors. There's probably a vapor recovery system that's on the nozzle itself, however it's not a hundred percent. There's always the chance of leakage. We lived through two leaks in our gas station. No matter what you do it's inevitable. It's just you're going to put something into the ground.

Now getting on to the hot topic of the traffic. The intersection of Route 9W with Albany Post Road and Leslie Road are already

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QUICK CHEK

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hazardous and potentially lethal. I mean not many of us will even leave the neighborhood from that intersection, especially if it's rush hour of morning or evening. At any time I know I won't try to go south on 9W. I will only use it if I have to go north onto 9W.

This is an actual picture of that intersection. This here is Albany Post Road. This is 9W traveling north. This is the Balmville Plaza that's across the street. Right over here is Leslie Road. This is almost -- this turn onto Albany Post Road from 9W is almost at 180-degree turn if you're traveling north on 9W and want to go onto Albany Post Road. That in itself has it's own hazards as people are not as courteous as they should be or used to be or what have you. People won't stop, they always go around.

That's another question for the Quick Chek proposal of traffic is that although there are variances that were made for the southbound traffic, when people are traveling north on 9W and want to make a right onto Albany Post Road, they always go around to the left into oncoming

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QUICK CHEK

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traffic to keep going north on 9W. There is not enough shoulder there to pull over completely to make your right onto 9W. I think we have a head-on accident waiting to happen there with this proposal. It's almost bound to happen regardless, but with the increased traffic flow, that scares me.

 This is a shot of Albany Post Road. If you are coming off of 9W you're looking south on Albany Post Road. As you can see, it's almost a straight-a-way for most of it's length. It is enticing to drivers who are impatient with 9W and don't want to go through the traffic lights of Stewart's and the bank and the school and things like that. Without a traffic light, and I understand that it is out of your control, anything that's high traffic going into that property is destined to cause havoc with the traffic and personal safety.

 The Quick Chek is a beautiful plan, it's a beautiful building. There's great provisions that are made with it. However, that property is not ideal for it.

 Then this is just the last view of

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QUICK CHEK

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Leslie looking towards Albany Post Road, and this is 9W south and north. Again, Leslie is at the same disadvantage where they can only make a right, and I haven't heard how Leslie would be compensated. They can really only safely make a right onto 9W traveling south. What if somebody from Leslie wants to travel north on 9W? They now have a left-turning lane, if I'm understanding this correctly, that would have to be choreographed before they can pull out and then also know who is going to be turning in in advance to Quick Chek because the Quick Chek entrance is only right here. It sounds like a great distance but in reality it's not, especially when you factor in reaction time. This left turn is going to be nonexistent for Leslie. If this does go through I think that something has to be done where signage needs to be done on Leslie that you can not make a left-hand turn to go north onto 9W.

Now the crime. This hasn't really been addressed, and crime is an issue in our neighborhood as it is. The problem being our proximity to 9W. It's enticing. You have the

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QUICK CHEK

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Havarest and the other motels that are down there, transient people who stay there. If you go on the sex offenders registry there's always one in there. It's just a magnet for less desirables, let's put it that way. From knowing in my experience a convenient store, a gas station is a high-crime magnet. Without fencing around the whole property those people are going to be enticed to come into our neighborhood for escape, and they scope this out. We already had -- one of our neighbors was robbed last year or the year before by this master plan where they come into these back neighborhoods and they have these distractions of either the front door or the back door with the people and somebody else comes in at the other end, but they get back down to 9W and they escape. That is going to -- I have three children and they are my top priority is creating a safe environment for them. This swing set is right along that wooded section. That swing set is right here, then there's some neighboring properties to the north going more along this section here. As you can see, they have less of a buffer as they go north. Also

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QUICK CHEK

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Echo Lane, as they go south they have less of a buffer in here. These trees are not along the proposed site. These trees are in between two properties that are next to each other over here. But you can see that these trees are almost all deciduous. During the wintertime I can tell you when Foo Chow is open because I literally see their open sign, thanks to the storm in part. But deciduous trees give us now permanent shield. If there were evergreens I'd feel a little more comfortable with that. Again, another neighbor who has large deciduous trees.

Now we're going to talk about the necessity of the service being there. Mobil gas station and convenience store is about one mile north of the proposed area. Stewart's gas station/convenient store is less than a mile south of the proposed gas station. Two miles south of that on 9W are three more gas stations all with convenient stores. And within a two-mile distance to the south and west of the proposed Quick Chek location are four more gas stations, all with convenient stores. This is the Mobil that's to the north of the proposed area. To

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QUICK CHEK

80

summarize, all those gas stations within a three-mile radius of the proposed Quick Chek location, there are already nine gas stations and convenient stores. Do we really need another one right there?

 This is what we're going to see more of. We don't see this in our neighborhood, houses for sale. There is really no transition of ownership. People see their thirty-year mortgages through in our neighborhood because it is so quiet, because we do stick together, because we do look out for the best interest of the neighborhood in its entirety. This is the only house in that area that's for sale right now. That will change if Quick Chek goes in. Homeowners will be squeezed out. This home right here, I don't know if it's a part of the property. I don't think so. I believe it's right about here. Am I correct? Right. Exactly. This poor house, honestly I would be putting the for sale sign up right now. I mean -- now this house, I believe it's definitely a house on Echo Lane but I believe it's one of our neighbors here. This is from 9W. This is not from inside

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QUICK CHEK

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the property but it's right across from where the proposed entrance is. You can actually see her house through the trees, and we're at the thickest point of growth that we will get for this season. So again going back to the lights that are going to be shining into their homes.

Quick Chek is beautiful. Quick Chek has a great purpose in mind, but I don't think Quick Chek belongs in our neighborhood. I'm not going to just ramble things off and not tell you where I got my sources from. You mentioned Dan Bendell at the DEC. These are all the resources that I spoke with on the phone to make sure I was accurate with what I said. I'll leave this up here in case anybody wants to jot anything down.

That about summarizes my concerns, and I thank you for your time.

UNIDENTIFIED SPEAKER: Thank you, Michelle.

CHAIRMAN EWASUTYN: Ma'am.

MS. GILBERT: Jill Gilbert, 229 Cherry Lane. I just wanted to double check the status on the suitable septic. You just said we're waiting for suitable septic. What's the status

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QUICK CHEK

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of that? Has it passed?

MR. MARTEL: We did do testing to ensure the system is, you know, placed properly. The application for the permit is pending.

MS. GILBERT: My understanding is prior endeavors on that property, that that was the big -- that was what stopped it was the septic and drainage situation. To me nothing is different. If it's failed before, then, you know, I don't know if -- I'm not an expert at it but -- are there gates to this?

MR. MARTEL: I don't have any knowledge of the prior applications. Quick Chek has had two consultants review the septic and both have concluded it will adequately service the site.

MS. GILBERT: Okay. We talked a lot about the traffic. I just want to point out a lot of times we're talking about a left. There's also difficulties making a left out. I just -- I don't know.

Ken, can you address that?

MR. WERSTED: It's really not isolated to this area, this site. It's, you know, the City of Newburgh to, you know, Marlboro. Turning

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QUICK CHEK

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left out from either side of the road, you know, it's difficult. Route 9W almost -- you know, if you think about it as a, you know, stream, it funnels traffic down onto the roads and then it concentrates it all down as you hit I-84 and the City of Newburgh. I think that's something that the traffic analysis of the consultant has shown, the left turn is going to be, you know, difficult. Whether it's with this site and from other applications we've seen in this corridor, it's the same situation.

One of the things that, you know, customers would have to consider if they were to go there the convenience. Does it make sense to go to this facility in the morning if you're traveling southbound because you have to make a left in and then you're going to have to make a left out. It may be more prudent to say I'm not going to go here, I'm going to go to the Getty station further up north or the Stewart's because I can make a right in, I can make a right out. The same thing in reverse, where people are coming home and traveling northbound, you know, do they go into the Stewart's or the Getty

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QUICK CHEK

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because they might find Quick Chek is easier to get into, or the Mobil station up the road is easier to get into.

MS. GILBERT: We have Stewart's on one side and the Mobil on the other.

MS. BIRKENSTOCK: We're well served right now.

MS. GILBERT: The improvements to the lane, is that -- does that happen first or does the building happen first, does it happen at the same time or are we going to wait years and years for the improvements to the lane changes?

MR. OLIVO: If I may, Mr. Chairman. For the record, my name is Charles Olivo, O-L-I-V-O, the traffic engineer for the project. You may remember me from the last time Quick Chek was here. I've been working on the project for about four years now.

We've been conducting traffic studies since the original time we applied here to the Board. The improvements as they're shown on this plan are conceptual in nature. We're fully committed to building these improvements as part of the DOT application. These improvements would

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QUICK CHEK

go in and would have to be signed off on by the Department of Transportation before the doors could open to this facility.

I think just for the record to set it straight regarding the traffic signal, we have, since the very beginning, shown the analysis at the driveway to operate under somewhat constrained conditions during the peak hour because there is a continuous flow of traffic during the peak hour. I think Mr. Wersted touched on the nature of convenience stores and that during the peak hours about sixty to seventy percent of the traffic into and out of a convenient store is already from the road. So essentially what's happening is the existing traffic flow that's passing by the site is drawn off of the roadway into the site and then continues on it's way. It's called pass-by traffic. In other words, someone traveling home from work in the evening might pass by this site every day and now that there would be a Quick Chek built there, or potentially a Quick Chek built there, they would divert their pattern slightly, travel in, get a gallon and milk or

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QUICK CHEK

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whatever they're looking for, and then continue on their way. So that doesn't add traffic to the network, it's simply a diverted pattern.

It's important to note that, and we found this in studies and the Institute of Traffic Engineers talks about it to some extent, if it's not convenient to get into and out of the site, that motorists use other options. I think there was some discussion of the fact that there are other options within this area. What we find during peak hours is that most of the traffic is detailed in a way that it's right turn in and right turn out so that the left-turn movements that may be more difficult to happen during peaks. I've observed firsthand on several occasions the ability to accept gaps in traffic in peak hours, and it is difficult along this stretch of roadway, and that is why in the early discussions that we had with the Department of Transportation we discussed the installation of a traffic signal. But the Department has been very strong in their position here, and that is they want to see how -- if this is approved and built, they would like to see how the roadway operates

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QUICK CHEK

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and then they would likely come back. Should there be conditions that need to be mitigated, they would look to install other improvements here. It is their opinion, and very strong at that because we have had a number of conversations with them about the installation of a traffic signal, that it would not be needed for this type of use, and that in some ways the convenient store can be somewhat self-correcting in the way it generates traffic because simply the nature of a convenient store. If it's not convenient to get in and out of people divert their pattern to go somewhere else rather than trying to force their way into a site such as this.

So that is really in a nutshell where we've been with regard to the traffic analysis and our consultations with the Department of Transportation.

MS. GILBERT: My only other concern was the 24-hour opening. I just thought it's a magnet for crime along that area and just vagrants and some of our homeless people. 24 hours just seems like not necessary in such a

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QUICK CHEK

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small area of the Town.

MR. MARTEL: Briefly, the 24 hours, although it seems to be the other way, it's actually a crime deterrent. Quick Chek has a lot of facilities that mostly operate 24 hours a day. Some don't. Primarily crime occurs when the facility is closed. By the fact it's well staffed, well lit, security on, what have you, and active during the night, actually acts as a deterrent to a lot of that crime that, you know, has been spoken of one or two times. So the ability to operate 24 hours, you know, is part of the Quick Chek brand, it is important to them, but it also has a lot of positives that go along with it in terms of that overnight activity that could take place at a facility like this.

CHAIRMAN EWASUTYN: Before I recognize someone, I want to give someone else a chance that hasn't spoken.

MS. MATTHEW FORBES: I just have a quick comment on what he said.

CHAIRMAN EWASUTYN: Is there anyone here this evening who has had a question that hasn't been addressed at this time?

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QUICK CHEK

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(No response.)

CHAIRMAN EWASUTYN: Okay. We'll take second rounds of questions.

Michelle was your name?

MS. MATTHEW FORBES: No. Joanne Forbes. While the 24/7 may be a deterrent to crime for your facility, I think it doesn't decrease the crime to the surrounding facility. With all due respect, you get robbed, it's a concern. I don't want any crime in my neighborhood. I'm concerned with what comes off your property onto mine, not vice versa. I don't think the 24/7 deters crime in the surrounding areas, only to your facility.

CHAIRMAN EWASUTYN: Okay. I know this gentleman here earlier had a question.

MR. RINALDI: Me?

CHAIRMAN EWASUTYN: Yes.

MR. RINALDI: I forgot the question I wanted to ask before. I'm kidding.

Like the gentleman said, you make a right-hand turn in and you make a right-hand turn out. That's at 4:30 in the afternoon when you're northbound. If you're southbound in the morning

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QUICK CHEK

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and you want to go into Quick Chek to get some gas or newspaper and a cup of coffee, a ham, egg and cheese, you go in and make a left. When you make the left you've got northbound traffic to consist with, you've got southbound traffic to consist with. The stall lane, I don't know the proper name of the lane that's allocated for the left-hand turn but you know what I'm trying to say, it's just -- I drove a truck on this road for fifty years. It's a horror show, okay. Believe me, coming in and out of my place is a horror show. There's just nothing you can do about it.

MS. BIRKENSTOCK: Michelle again from 219 Cherry Lane. Piggy backing on what you had said in the very beginning, sir, about the length of the tractor trailers and how in their turn you estimate one truck -- full length truck being able to pull into Quick Chek and another car behind it maxing out the lane. It was countered by saying that other than the two times during the day wouldn't be a draw for trucks. However, you then asked if there was going to be diesel fuel being sold and the answer was yes, low-flow

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QUICK CHEK

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diesel fuel. Low-flow diesel fuel, if I'm not mistaken, goes into the majority of delivery trucks such as Fed Ex, UPS which are approximately twenty-four feet in length. So it would only make room for one more vehicle in that lane, which really is not substantial. I just wanted to comment on that.

CHAIRMAN EWASUTYN: Any additional comments from the public?

MR. HESSARI: Frank Hessari again. It's very odd for me to be on this side of the aisle. I'm always on that side. I'm building three gas stations right now and Bohler, they are my engineers also, your New York office.

9W, one of the real estate brokers told me it's an obvious route in Orange County, and I got kind of insulted but it's the reality. It hasn't changed much in the twenty-one years I've been there. We've got three buildings going up.

Quick Chek is a great company. They are our competitors. Quick Chek, they do three times to five times more volume than any other gas station, the highest volume locations. So it's very important -- that's the only reason I

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QUICK CHEK

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came here. I am not against the project, I'm just here to make sure it's a safe project.

You know, 9W, it's a very dangerous road. Most of the people in our office, when they're getting out they are not making a left turn, they're going north to Marlboro someplace and then making a turn and coming down. That's not their fault.

My oldest brother was going to buy a house right behind us in the new development and I told him don't. He said why. I said do you really want your wife and your daughters making a left turn on this road? It's very dangerous. I mean the speed limit is 40 miles-an-hour but, you know, the trucks are going 50, 60 miles-an-hour. You know, if the Quick Chek was a normal gas station, I mean it could be fixed. There is a way to fix the problem.

I mean I have no right to speak on behalf of the neighbors that are directly affected. That's between them and the Board.

When I go to build a gas station I always listen to those people who are directly affected. But if they have that left lane,

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QUICK CHEK

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somebody has to do the study and make sure that left lane is a quarter of a mile at least.

Quick Chek is one of the fastest growing convenient store operations. They do have 120 sites, you're correct, but it's only, if I'm not mistaken, maybe 20 of them are gas stations. Gasoline is new for you guys for the last four or five years.

I met the owner at the Vegas show and he has a mission. He has a mission. They want to be the fastest growing company in the Hudson Valley. They like the Hudson Valley. They couldn't go to South Jersey because of Wa-Wa. They couldn't compete with Wa-Wa or Sheets in Pennsylvania so they came to New York, and they love New York because it's self-service.

But their volume, I mean this gentleman could correct me if I'm wrong, they do 500,000 to 600,000 gallons a month. That's three to five times more than the highest locations that we have in this area. If I'm wrong they could testify to that.

The Quick Chek -- I was at the Bank of New York yesterday in Meadow Hill. I met the

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QUICK CHEK

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manager for the first time and he knew I'm -- I told him I'm in the petroleum business because they closed our branch, the Bank of New York. He told me Frank, why don't you build a Quick Chek, they have the greatest cookies. Quick Chek is a destination. People love Quick Chek. They make their own bagels. As I said, maybe this gentleman -- the passive traffic is not going to be seventy percent. They post the gasoline prices that's going to be lowest than anybody else. Rightfully it's a free market economy. As long as the site is safe they could do it. That's no problem. They even beat Hess in their prices. Hess has refineries. These guys don't have refineries. They want the whole pie. That's fine, that's business and it is not take the power of the Planning Board.

What I'm trying to tell you is there's two problems. Quick Chek is too good. They're going to have all the business. People are going to go in there for breakfast, for lunch and they're going to -- they're going to go out of their way to Quick Chek to get gasoline. It's not like passing traffic. People are going to

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QUICK CHEK

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come from North Plank Road to go buy gasoline and make the situation worse even on 9W, which is not funny. We're going to go head to head with them so we're going to have two very, very busy gas stations. I don't know how safe it is going to be.

Anyway, the only reason I'm here, I don't want somebody to get killed and then say well, you know what, oops, let's put a light, we didn't know that. I don't know if DOT knows Quick Chek's business. Quick Chek, you could request the data from them. Nobody is going to be able to lie about it. Quick Chek is the Wal-Mart of gasoline and convenience stores. They're very good operators. They are very successful. Three generations of farming. Gasoline is new to them the last four years. They're going to grow. It's the reality. It's the right location. Is that safe? 9W is a very dangerous road.

I think it's the responsibility of the consultants to make sure that when people -- for two cents a gallon people make a left turn. For ten cents a gallon people are going to drive over

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QUICK CHEK

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the Jersey barriers. Really you've got to make it safe.

I mean they have a site in New Windsor, it's perfectly safe because it's a corner. There is no truck going 55 miles-an-hour.

I've been to most of their sites. They have a site in Kingston in the circle. Nobody can go more than 40 miles-an-hour.

I mean Sheets and Wa-Wa, they would never build a site the customer has to make a dangerous left turn, and they're the leader in our industry. If the CEO of the company wants to follow the -- I mean the reality is they are a very good company. We need -- I personally would love any kind of development on 9W. It's going to make us better and to compete and be better competitors, but they're not a normal gas station. They're very high volume. So I don't know if DOT knows that, or our consultants. They have to count all that.

The information about seventy-percent passive, it is not correct. More data is going to be out there. They could study that. You can go see their sites. They're great operators.

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QUICK CHEK

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They have their own bagels, they bake their own bread. They're going to have a lot of people going there. We have to make sure that's safe so somebody's teenager doesn't get killed.

Thank you.

CHAIRMAN EWASUTYN: The lady in the back.

MS. BIRKENSTOCK: Michelle Birkenstock again, 219 Cherry Lane. Just to reinforce what he had just said, I don't know how many ears actually caught it, it is actually a place to go. It is a destination. It's almost self-admitted. There are sixty-nine proposed parking spaces. Sixty-nine. That's more than our Newburgh McDonald's on North Plank Road and Dunkin Donuts put together. Probably double that.

CHAIRMAN EWASUTYN: Thank you.

MR. DONNELLY: John, if I could add one response because I'm familiar with the DOT's position in other projects that Quick Chek has in other municipalities. Just so you understand what DOT has said, DOT has not categorically said no traffic light. What they've said is if in the worst-case scenario that was just portrayed, that

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QUICK CHEK

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people would drive over a Jersey barrier for Quick Chek cookies, it pans out that there is substantial left-turn volume, the DOT will approve a traffic light for the location. That has its own issues too. I just wanted to let you know that the DOT hasn't ruled out a traffic light, it simply wants to take a wait-and-see attitude based on actual use.

CHAIRMAN EWASUTYN: I think I'm going to sort of bring this to a close. Michelle, I'll take your question now. We understand there's a concern about traffic and safety.

MS. BIRKENSTOCK: That's just what I wanted to say. All this talk has been about traffic but there were many more issues, and I hope that it's not just voted on traffic alone. Thank you.

CHAIRMAN EWASUTYN: This gentleman.

MR. RINALDI: About the ingress/regress, I'd like to have the number of this telephone pole and the number of the next closest telephone pole to see when the traffic backs up, the left-hand side traffic with the tractor trailer in the designated yellow and the

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QUICK CHEK

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car, if it's going to interfere with the
ingress/regress in my place, because it looks
like it's very, very close and it looks like it's
going to back up there. I don't know, maybe
prior -- maybe you people know. If you see a
vehicle stopped in front of you and you can go
around, you slow down to begin with until you see
clearance and then you accelerate. If somebody
does that and doesn't look to the right because
they're looking at the vehicle parked in the left
to make the left-hand turn and one of my trucks,
or my car, or my wife is pulling out there,
bango, now what? Whose fault is it? Where is
the stop light going to be? Down by the
ingress/regress for Quick Chek, not up there.
It's going to back the traffic up in front of my
place, and we've got seventy-foot vehicles to get
in and out of there. Of our own admission we
have to cross into the northbound lane, right, to
make a southbound turn because it's just not wide
enough. The road is not wide enough. The State
has designated all the curbing and this and that
and it was all beautiful. I don't know, it's
just --

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CHAIRMAN EWASUTYN: Ken Wersted, we're doing a coordinated review with the DOT?

MR. WERSTED: Yes. The DOT has been involved since the project in its original application in 2006, 2007. They've been looking at that. They issued comments back then. As the new application came out they're looking at it again. So all the improvements out there have to go through a DOT review because the applicant needs a highway work permit from DOT. They can't do any work within the right-of-way without DOT's approval. That's basically the process that they're going through.

MR. OLIVO: Right. Just a follow up on on some of Ken's comments. This use is not new to the Department of Transportation. We've worked on approximately six to seven applications with the Department over the last five years or so. They're familiar with the Quick Chek use and how it can be somewhat different from other convenience and gas. Again, there's no reason to state that it is any different with regard to the nature of the traffic that it generates, particularly during the peak hours. The

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QUICK CHEK

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Department of Transportation has not required any analysis or any level of analysis that's any different here than anywhere else that we studied the Quick Cheks which are now in operation. They have been able to study it from the very beginning during the projection type phase and during the analysis phase, and also now there are a number of Quick Cheks in operation throughout the DOT arterial roadway system that they have the opportunity to monitor on their own. We've been through this process for quite some time with the Department. They're very familiar with the use.

MR. WERSTED: To expand on DOT's discussions about the traffic signal, I can't speak directly for them but in my experience their reception to a traffic light is certainly more enticing when there's some public benefit from it. If there was another street opposite the site driveway to Quick Chek they might be more likely to have that be approved, you know, early on in the project rather than take a wait-and-see type of approach. If the site were coming in as a fourth leg to an existing public

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QUICK CHEK

102

intersectiona and the public would see a great benefit from that traffic light, then they might look at it more favorably in the beginning stage. Absent of that there -- I can't speak directly for them but I would think that they're taking that wait-and-see kind of approach, as Mr. Olivo had mentioned, to see if the public naturally, you know, changes their patterns to accommodate what is existing out there in the sense that travel volumes are very heavy in one direction in the morning, very heavy in the opposite direction and whether they choose to make their purchases and travel into the site based on those traffic volumes and the different periods of the day. If they do find it more convenient to visit the site in the afternoon and they choose not to do it in the morning when they're traveling southbound, then that's kind of a self-mitigating, self-controlling type of function that would come from the customers of the project.

CHAIRMAN EWASUTYN: At this point I'm going to -- the gentleman here.

MR. VALERIO: My name is Bob Valerio, I'm the vice president of real estate for Quick

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QUICK CHEK

103

Chek. If I may just address the public for a moment.

First of all I want to thank the Board for allowing us this opportunity to come before you, and I want to thank every member of the public for coming out and expressing your concerns. They're concerns we share all the time every day. We are a privately held company. We do have 124 stores, 123 stores right now. Seven of them are here in the State of New York. We have one more under construction.

A couple of issues I'd like to address because they have come up, so I hopefully can give you some answers. Our tanks are double-wall steel. They're also coated with a resin so that it prevents the rusting. They do have the interstitial in between, so it helps in terms of, you know, monitoring what's going on. Probably one of the key factors is we satellite this information back to our corporate office to our computers 24/7. What is that doing? It's measuring inflow and outflow so that we know from how much we've received and then the receipts by which we sold what amount of fuel is moved, and

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QUICK CHEK

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there's a little bit of a tolerance so if there's any differentiation it shuts the system down, so much so that we've been able to assist police departments and things of this nature where there's been short deliveries and our systems shuts down we were able to track it back to what happened. So we have a very, very extensive, elaborate system. Yes, there's cutoffs inside the store manually, there's cutoffs at the pumps. There's also all the systems that we talked about, the bells and the whistles if you would, in terms of how the overall system operates, so that, you know, we're very conscious of that. We are a privately held company, we're not that big. We can not afford not one incident of any kind of spillage or things of this nature. There is a very elaborate system in terms of capturing all this, in terms of, you know, if there was a spillage by the guy who is fueling -- taking it from the truck to the tank, you know how he has to operate, lock it down, et cetera.

My point is this: We are very, very, very conscious of all of the things that you all have expressed tonight and we make sure we exceed

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QUICK CHEK

105

all Government regulations at all levels, so much so that we are really operating the Cadillac, if you would, of the fuel dispensing part of our business.

As to the buffering and things of this nature, I will tell you that I'm not opposed to enhancing the landscaping, I'm not opposed to adding some fencing, if that's acceptable to the Board and to the planner, so that if it helps to mitigate any concerns you may have, you have my commitment that we will do that.

As to the traffic, you've heard enough testimony and things of this nature so I'm not going to sit here before you and try to tell you one thing or another. There's experts far greater than I who can address that issue.

I'm here. If anyone has questions at any point, I'll be glad to answer.

The one last thing that's been talked about continuously, or at least brought up a few times, is the idea of crime. We do operate 24/7. We operate 24/7 for a multitude of reasons. We found through our forty plus years of operation that it's one of the biggest crime deterrents

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QUICK CHEK

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when we operate on a 24 hour/7 basis. Yes, we do have a few stores that are not 24/7, and unfortunately those are the ones that get subject to malicious vandalism at times.

As to loitering, we don't allow it to take place. We're very conscious of that. The predominance of our employees at all our stores come from the very communities in which we operate, so they could end up being your very neighbors. Yes, it's true. So I will tell you that we're very careful about that. If it happens -- we want to make sure that it doesn't happen. If the Town allows us to put up no loitering signs we will do that because the police department has the ability to enforce it. We work closely with the community.

We have a very elaborate system of cameras and things of this nature, sixteen or eighteen of them I think there are throughout the facility inside and outside. We work very, very closely with your local law enforcement. Many, many times we're called upon to have our systems, because we're recording all the time, utilized in helping the police department track down

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QUICK CHEK

107

unwanteds, if you would, only because they may have come by, they may have filled up their car, whatever the case may be, so they assist them in doing that.

Some of you may remember, it was just about six or seven months ago, it made national news, there was a gentleman in New Jersey who was captured because he was planning to -- he had maps and very heavy arsenal that he was going to bring about harm to one of the military bases in New Jersey. He was captured because of the diligence of our employees in our store who noticed him and the way he was operating, because we train our people very carefully to look for those kinds of things, call the local police and brought him in. So we're very careful and conscious of this. We really are. We don't want this ever to be a place for loitering. We don't want this to be but a good experience for everyone. We try to do the very best we can to be a good neighbor in the community. Thank you.

CHAIRMAN EWASUTYN: The offer was made, and I don't mean to sound rude but if there's anyone who has a question or clarification, I

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QUICK CHEK

108

think now is the point because we'll take him sincere as far as what he's going to be presenting us as far as mitigation measures. So for any clarification of that, we'll take three or four hands and you can address that mitigation measure that he proposes to satisfy your concerns.

(No response.)

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

MR. BROWNE: This project has been before us for awhile now, previously and came back again. I know the applicant has done a lot at our request, changing things and modifying and doing some different things to improve the project. Just as I noticed and I mentioned a few times with the traffic, we have no jurisdiction over that whatsoever. That's strictly the State of New York. What they decide to do they do. We have nothing to say about it. So in this case what they have approved, what they're looking at to approve, we can't change that. We can't modify, we can't do anything to it. All we can do is bring our concerns to the State level, they

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QUICK CHEK

have done it, and what we have is what we have.

The comments about looking at the traffic lights in the future, often some of these projects we do that. We did that with Wal-Mart. We went in a year later and looked at the traffic there again because I was one of the people myself that questioned the traffic going to Wal-Mart. The study after the fact showed that the traffic analysis was -- how can I say -- showed a lot more traffic going in than actually occurred. So the traffic conditions were done much more than actually what is needed on the final project. So they do happen. We will try to follow through to make sure that that does happen in a timely fashion with this project as well.

Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have a question on the visual simulations. It appears that the store level is on the level with Route 9W. My impression was that it was going to be -- even after you filled, it would still be depressed from 9W.

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QUICK CHEK

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MR. MARTEL: To clarify, the elevation at Old Post Road at the intersection is approximately 305, roughly 306, and at the other side of the frontage it's almost 293. So you have about a 12 to 13 foot drop across this. So up here we have elevation 303. Our store is at elevation 296.5. So approximately 6 to 7 feet lower than Old Post Road, and we're approximately 3 feet higher if you go all the way to the north end of Route 9W. So because of this 12 to 13 foot grade change, you'll see a variable. In terms of right in front of the site, it's approximately 301. We're sitting about 5 feet lower if you go right directly in front. So that's probably the variable in terms of how the building is going to be viewed from 9W.

MR. HINES: The entrance drive is about 299 and the finished floor elevation of the building is 296.5, about 2 1/2 foot down from the finished floor. The photo does show it looking a little elevated but I think that's because of the drop in 9W. The finished floor will sit 2 1/2 feet lower than the entrance drive.

CHAIRMAN EWASUTYN: Joe Profaci?

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QUICK CHEK

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MR. PROFACI: I just wanted to say that I've listened intently to everything that everyone has said and I've taken notes. Anything that we are able to help mitigate, we certainly will do our best to do that.

As Cliff said, there's a few things that we have no control over. But everything we can do we will do. You can be assured of that.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I'll go along with Joe. The one thing that's interesting in working with these people is they actually do listen. It's been a pleasure to work with them. I'm sure that as we go through this process and this process continues, they will continue to work with the Board and the concerns that you have will be expressed.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'd like to say thank you for your comments. I appreciate the input. At the same time I appreciate them talking about putting fencing up and putting evergreens around the border. I'm sure they're going to work with Karen, our Landscaping Consultant. I think that's

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QUICK CHEK

112

very important for the neighborhood. It's very important. You've worked with us so far. I see no problem with it. Thank you.

CHAIRMAN EWASUTYN: All right. Any further comments from the public before I move to close the public hearing?

MS. CARDONE: Grace Cardone, 7 Echo Lane. One thing that wasn't mentioned again was the drainage. I know you talked about the easement. Would we be able to see some type of a drainage plan?

CHAIRMAN EWASUTYN: Pat, there is a drainage plan?

MR. HINES: Yes. There is an extensive drainage plan incorporated. My office and the applicant's representative spent quite a bit of time. We've given three rounds of comments to make sure that this project meets the DEC standards for the stormwater hot spot requirements. It's a separate chapter in the design guidelines because of the petroleum use on the site. They've incorporated several best management practices, as they're currently called, the proprietary Vortechnic device that

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controls sediment prior to the discharge of the ninety-percentile storm, 1.2 inches of rain or less. Ninety percent of the storms we have in this part of New York State generates 1.2 inches of rain or less. That's been directed to a filtering system made with a proprietary leaf compost filter which is an acceptable DEC practice. That initial rainfall is required to be filtered prior to discharge. They've also designed a water quantity control to reduce the flow rate as a separate stream in the drainage system. Again, we've commented on it, they've addressed our comments. There's been several iterations of the drainage report.

We have concurred with the hydraulic analysis that's been provided for the stormwater management on the site. We have some technical questions to make the document meet the DEC requirements for a stormwater pollution prevention control plan, some additional narratives and forms and certifications that are required.

So we are in conceptual approval of the drainage. I have comments to the applicant's

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QUICK CHEK

114

engineers tonight regarding addressing the technical concerns of making it comply, but there is an extensive stormwater management.

Maybe Mr. Martel can point that out in the front. The project frontage there, the brown area is the filtering portion of the stormwater management system and then the area north of that is for stormwater quantity control. That's all discharged across the driveway via a pipe and then into the low wet area that has been designated as a Federal jurisdictional wetland but currently contains a lot of old speakers from the drive-in movie theater.

MS. CARDONE: It extends from the Forbes' property on the corner?

MR. HINES: The existing drainage remains intact. That existing pipe north of your lot there, that same routing is going to bypass the existing flows through the site. Whatever currently goes into that drainage system will continue in a pipe that's probably seventy-five percent new. There's a small section there which, based on your comments, I'll go out and take another look before they get approval to make

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QUICK CHEK

115

sure that that piece of pipe functions. If it needs to be replaced we'll make sure it's replaced. That is discharged through separate from the stormwater management system that they are proposing. The existing stormwater passes through. The water runoff from their developed site goes through the treatment processes for water quantity and quality control.

MS. CARDONE: Thank you.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to close the public hearing on the Quick Chek site plan.

MR. PROFACI: So moved.

MR. WARD: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

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QUICK CHEK

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MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to give us conditions of approval.

MR. DONNELLY: First I just want to mention that the Town of Newburgh Zoning Ordinance allows the Planning Board to grant a two-step approval process. In projects where there is a sufficiently complicated application and the need for a great number of other agency approvals, and this is such an example, we had the DOT, the Orange County Health Department, the DEC and so on, the Planning Board is allowed to grant a preliminary approval based upon that, and it's a preliminary approval that the Board is considering this evening.

In terms of conditions, we will of course need a sign off from the technical memos of the various consultants that exist as of tonight, and additionally those that will be produced as we do further review.

The applicant has indicated that

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QUICK CHEK

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they're willing to propose some additional landscaping and some type of fencing. That will result in some other technical memo, so on and so forth. So we're going to need to have a sign off on all of those various conditions in the technical memos.

In addition, there are certain further planning details that will be required before final approval can be granted. I will check after tonight's meeting to make sure I have all of those, but in my notes I have subsurface sanitary sewer system design details. I know that's been submitted but it has to go to the DEC and the Orange County Health Department. A stormwater facility maintenance plan that will be incorporated into an agreement with the Town Board at the time of final approval, enhanced buffering and -- enhanced buffering and a planting plan along the easterly and southerly property lines, and a fencing plan of some sort. I don't think the Board wishes to dictate it. I think you're going to need to come forward with it.

In terms of other agency approvals, we

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QUICK CHEK

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will need, I think it's the Town of Newburgh engineer that makes the call, Pat, on the stormwater management plan, or is it you?

MR. HINES: My office does that coordinating.

MR. DONNELLY: Do we need any water connections from the Town of Newburgh water department?

MR. HINES: Yes.

MR. DONNELLY: The building department, code compliance will have to issue a demolition permit. Ultimately we will need ARB approval of the rendering. The Orange County Department of Health will have to review and approve the subsurface sanitary sewer system design as will the New York State Department of Environmental Conservation. We will also need to issue a SPDES permit, or at least a notice of intent, before construction I believe.

MR. HINES: Yes.

MR. DONNELLY: And the New York State Department of Transportation.

As part of the preliminary approval we ask that the applicant copy the Planning Board on

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QUICK CHEK

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all correspondence with any of those agencies. Any amendments to the existing plan set that you're required to submit must be also submitted simultaneously to the Planning Board.

At the time of final approval there will be various kinds of financial security and inspection fees required. Among those are a landscaping security and inspection fee, stormwater improvement security and inspection fee. I don't think there's a water main, so there's no water main --

MR. HINES: No. It's only a lateral.

MR. DONNELLY: Under a resolution passed by the Town Board last summer you would be permitted to defer the landscape fee to the time of building permit. I don't know if that's of any benefit to you at all. If you wanted it you can speak with Bryant about the map notes and the certification that would need to be submitted.

We will need a sign-off letter and an acceptable stormwater facility maintenance agreement before final approval. We will also need a maintenance plan for the leaf compost filtration plan to the satisfaction of Pat Hines

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QUICK CHEK

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before final approval is granted.

Some conditions that will be included in any final approval that may be granted will be the requirement of parking lot maintenance under Section 131-1 of the ordinance because there are more than fifteen parking spaces in this lot. The DOT will have to issue a highway work permit. We have those already. A demolition permit.

I think there was a need for, and correct me if I'm wrong Pat, an access easement for the benefit of an adjoining parcel, Manzo.

MR. HINES: Yes.

MR. DONNELLY: It was in one of your earlier memos. That access easement will have to be submitted and approved before final approval.

MR. HINES: It may exist. It's on the plans. Either they need to submit the existing one to you or provide one.

MR. DONNELLY: That may well be what it is.

The discussion earlier about the drainage and maintenance easement allowing the Town to discharge stormwater will need to be clarified and finalized by the time of final

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QUICK CHEK

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approval. The Planning Board may, and I think the resolution is only raising it as a notation to be resolved before final approval at which to include the limitations of Section 185-30 of the ordinance which relates to the outdoor storage of merchandise for sale as well as the sale of merchandise itself. There are provisions of the code that govern that. I don't know if any of that is proposed. We'll put it off until the time of final approval. If there is there are code provisions that limit how that can be accomplished. I mentioned earlier Architectural Review Board approval. There are various forms of security. There will be a condition in the final resolution that says that no outdoor fixture or amenity not shown on the plan may be built. That includes HVAC units and of the kind. So anything that's going to be on site needs to be shown on that final plan before it's approved.

I think those conditions will note the things that need to be included in final and will allow the applicant to now go to the Orange County Health Department and the DEC and pursue those other approvals. After obtaining those

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QUICK CHEK

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they can return for final approval. In the meantime we can work on the mitigation measures that were discussed this evening.

CHAIRMAN EWASUTYN: Having heard the conditions for preliminary approval presented by our Attorney, Mike Donnelly, I'll move for that motion.

MR. MENNERICH: So moved.

MR. WARD: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

Thank you all for attending.

(Time noted: 9:13 p.m.)

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

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

DATED: June 17, 2010

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

----- X

In the Matter of

SUBDIVISION FOR GARDNERTOWN COMMONS
(2009-12)

Intersection of Gardnertown and Creek Run Roads
Section 75; Block 1; Lot 21
R-3 Zone

----- X

ARCHITECTURAL REVIEW

Date: May 20, 2010
Time: 9:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MR. BROWNE: The next item of
business is the subdivision of Gardnertown
Commons. That has been removed from the agenda
per request of the applicant.

(Time noted: 9:13 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: June 17, 2010

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

----- X

In the Matter of

GOLDEN VISTA
(1999-33)

Meadow Hill Road
Section 60; Block 1; Lot 9
R-3 Zone

----- X

AMENDED SITE PLAN

Date: May 20, 2010
Time: 9:14 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: KIRK ROTHER

----- X

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MR. BROWNE: The last item of business on the agenda is Golden Vista. It's an amended site plan on Meadow Hill Road being represented by Kirk Rother.

Did I get that correct?

MR. ROTHER: Yes, you did.

Good evening. Kirk Rother, civil engineer representing Golden Vista. We were last before the Board in February. That was after we had had a workshop with the Town's consultants in which the applicant was just trying to put the feelers out there as to possible options he could pursue on the Golden Vista senior citizen project, removing the senior citizen constraint and doing market rate type of housing. At that meeting I had just handed out some 11 by 17s that showed basically what we see here. I don't even know if I had the comparative layout. We had this layout here which was just a concept that reflected what the market rate scenario would look like. On this plan here we also show what is approved on the senior citizen project. As you can see, there's very little change.

Subsequent to our last meeting before

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the Board we went back and had another workshop with staff and we discussed in a little bit more detail with regard to the affordable housing provision that's allowed by the Town Zoning Ordinance. We also had some discussion on the density to make sure we were both on the same page. The senior citizen project as approved allows 188 units. It seems if we were to take advantage of the affordable housing provision in the Town of Newburgh ordinance, we would be allowed 164 units. That layout works well for the applicant.

After we had left that workshop, because this senior citizen housing requirement requires that the Town Board allow the increase in the density bonus, it was suggested that we have an informal meeting with the town supervisor, town attorney and town engineer just, I guess, to get it on their radar since that would really be the next step in trying to pursue this project.

Another element of this is the affordability of the units. It's tied to the median household income of Town of Newburgh

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salaried employees. I did contact the town accountant, she gave me the definition of, I think it's the median income of Town of Newburgh salaried employees. In 2010 it's around \$48,000. There's a multiplier that you use based on the anticipated number of people in the family, two through six or more. Because we're limited to three-bedroom units of 1,000 square feet, we figured that our target family for the affordable housing would either be four or five people in the household. If you use four people, the sale price is around \$195,000. If you use five people the sale price is around \$219,000. Because we are limited to 1,000 square feet though, we really don't see that the sale price would be approaching that upper limit. It's more likely to be around \$195,000, \$199,000 for the affordable housing units.

The way the code reads, 18 of the 164 units would have to be deemed affordable. The code reads that one-third of the increased number of units have to meet the affordable housing criteria. The balance of these would be market rate.

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So when we left that meeting with the supervisor and the Town Board and the -- or the town attorney and the town engineer to now come back to this Board, and the next step would be for you to formally recommend us to the Town Board so we can get before the Board in their entirety and they can discuss the project and decide whether they'll allow us the density increase or not. The supervisor and the town attorney also suggested that we have -- we ask your Board, in making the recommendation for the affordable housing, also recommend the minimum bulk requirements, the front yard, side yard setbacks. That is another line item that is to be established by the Town Board, but I think the sense was this Board would be more appropriate in handling this matter.

We propose the same setbacks that were approved for the senior citizen project. Those happen to be the same setbacks for the underlying zoning, those being multi-family in the R-3 zoning district and garden style apartments.

That's really where we've been since we were here last. The plan hasn't changed

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significantly. This is a layout that really works quite well.

There were eleven buildings prior, eleven buildings still, community center still, two playground areas that would meet the minimum space requirements for the number of units. This plan, again as I had indicated before, may change. We're really not at a high level of detail with regard to the engineering at this point. If the Town Board okays the affordable housing plan, we'll go to the next level.

CHAIRMAN EWASUTYN: At this point Mike Donnelly is going to summarize this presentation, and Bryant Cocks and Pat Hines are going to make comments as far as notes that should be shown on this before it's referred.

Bryant, Pat.

MR. COCKS: Sure. Just with regard to density, just so we have it on the record, in the R-3 zone for multi-family housing it is six dwelling units per acre. When you add in the affordable housing it goes to nine units per acre. Six units per acre is 109 units, with nine it's 164. That's 55 extra units. The amount of

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affordable units on site has to be one-third of 55, which means 18. So 18 of the 164 units will be affordable, the rest will be market rate. So it's about ten percent of the units end up being affordable.

With regard to setbacks, as he mentioned he's using the multi-family housing setbacks. It meets all the requirement for the ten-acre minimum lot requirement, width, depth, front yard, rear yard and side yard setbacks. The building coverage and the building height and lot surface coverage also meet code. We would recommend that would be some good parameters for the setbacks.

With regard to some of the notes on the plans, we think it would probably be good to put some of that information on the plan, and then also go to 185-47 and just put in some of the main requirements for affordable housing, which would be for the ease of the building department and also probably for the Town Board. There's just a couple of requirements and that should probably be on there. If you want I can kind of lay those out in an e-mail or something like that

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so you have it in writing.

MR. ROTHER: Sure.

CHAIRMAN EWASUTYN: Pat, do you have anything to add to that?

MR. HINES: I think it will be helpful both for the Town Board and as you move forward to put those requirements from the zoning section for the affordable on there, the unit sizes, the bedroom counts and such, so they can continue on. The bulk tables, I know you have the R-3 bulk table on there right now. If those are the ones you're proposing, that's okay. I don't know if that's still what you're proposing or if that's what you come back with. The Town Board will set those at your meeting.

There's a section of Federal jurisdictional wetlands on there, and I think you have the original mapping still on there. I know that back in the early '90s some of that was filled when it was the one-acre limit. I'm suggesting you clean that up now so it doesn't get carried forth and we're at a public hearing at some future point where someone brings up the fact you're filling too many wetlands. Clean

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that up off the plans right now and show that the area that was previously filled is no longer Federal wetlands.

You're showing your roads as one of the buildings in there right now. That will have to go away sooner rather than later.

The future submissions will require the typical details. Also, if you're going to phase this, the type of ownership of the units should be identified, whether there's going to be an HOA I'm assuming. That kind of stuff should be shown on the plans.

Phasing is an issue we run into. Projects get along and we come back and try to talk about phasing. Think about that as you go along.

That's all we have.

CHAIRMAN EWASUTYN: Mike Donnelly, would you assist us in referring this to the Town Board?

MR. DONNELLY: The codes section in question, 185-47, has sort of a triangle methodology. The applicant first comes to the Planning Board, the Planning Board then needs to

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make a recommendation to the Town Board as to whether or not the affordable housing provisions, the density, should be applied to this property. Armed with that recommendation, the applicant then goes to the Town Board, and the Town Board can authorize the Planning Board to pursue a review of a site plan showing affordable housing and its density bonus, and the Planning Board may then fix the building setbacks, density and other bulk requirements of the code.

You discussed during your work session the neighborhood, the project, and though you took no action or no vote on what you wished to do, I took some notes about what was discussed. If you're inclined to report a favorable recommendation on allowing this property to receive the density bonus of Section 185-47, I would include these items in the letter: An appropriate location in the sense that sewer and water services currently exist. The neighborhood already has a mix of expensive and moderately priced homes. This project in this neighborhood would carry that forward. The ratio of affordable to market rate units that are allowed

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by the code under the formula that Bryant just outlined for you is a good fit on this site. Further, you could recommend that the bulk area restrictions for the R-3 multi-family zone requirements are appropriate here. As Bryant has pointed out, the current proposal meets those requirements without the need of any variance.

CHAIRMAN EWASUTYN: Cliff, do you have anything to add to that?

MR. BROWNE: I don't know. I just -- with this whole thing it's kind of -- I don't like the way the whole code part is written up, the way it affects our Board and the Town Board. I just think it's inappropriate for us to have to make recommendations to the Town Board about the appropriateness of having housing affordable for Town employees. It just doesn't make sense to me. That's what it comes down to. I don't think it's an issue or a problem to have Town employees live anyplace they want in the Town. That's my opinion.

So from that perspective I would say I have no problem recommending this to be built.

CHAIRMAN EWASUTYN: Well said. Well

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GOLDEN VISTA

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said.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I guess the only concern I have in comparing the senior project to the project that's proposed is the environmental work relative to school children and traffic might be different. That I guess would be covered down the road.

MR. DONNELLY: Right. There would be no reason to begin reviewing that unless and until the authorization to review the plan was granted.

MR. ROTHER: I'll tell you, too, that Mr. Osborne expressed a concern on traffic also. He said that was something definitely to look at.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: At this point I'm comfortable with recommending to the Town Board that they review this.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I agree. I just had a concern as I was looking through the bulk requirements where the maximum for a one-bedroom

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GOLDEN VISTA

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is 700, two-bedroom 900. That's the max. Is that what you're looking at in so far as the size?

MR. ANNARUMA: That was the original senior --

MR. ROTHER: There's something that after I read Bryant's memo today, really isn't a hundred percent clear to me. In the affordable housing section of the code it establishes a maximum habitable area. Now, our take on this is that the eighteen units we're proposing as affordable have to meet that criteria. If you look in the R-3 zoning district for multi-family, it's actually the opposite. It establishes a minimum habitable floor area for some of these units. I'll be perfectly upfront with the Board, our intention for the remaining units, the market-rate units, would certainly be larger than 1,000 square feet. Probably 1,300 or 1,400.

MR. ANNARUMA: That was another concern that we had originally, that the seniors, that's what the code was, 700 to 900. We had 44 ones and 144 twos at 700 to 900 feet. That's what the code was for seniors.

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CHAIRMAN EWASUTYN: Just for the record, would you give your name?

MR. ANNARUMA: Thomas Annaruma. That's what the code was.

MR. ROTHER: We are aware of the 1,000 square foot threshold for a three-bedroom unit for the affordable housing units. We're okay with that. Really that is probably how we're going to arrive at a price point that fits the formula, just basically sheer square footage.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'm basically ditto'ing what Cliff said because I agree with everything Cliff was talking about.

CHAIRMAN EWASUTYN: Okay. I'm in favor of recommending to the Town Board that this site be favorable for the workforce housing, and if the Town Board does accept that we would have an understanding that your resubmission would require a new application, because this will no longer be a senior housing project, it will be something different. We discussed that at the work session.

MR. ROTHER: Yup. Okay.

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CHAIRMAN EWASUTYN: Then I'll move for a motion to have Mike Donnelly prepare a letter to forward on to the Town Board based upon our consideration of the Golden Vista site plan and the change from the senior housing use to the possibility of workforce housing.

MR. FOGARTY: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

MR. ROTHER: Thank you very much.

(Time noted: 9:31 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: June 17, 2010

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

----- X

In the Matter of

LANDS OF ZAZON
(2004-29)

Discussion of Subdivision Plans

----- X

BOARD BUSINESS

Date: May 20, 2010
Time: 9:31 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO
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MR. BROWNE: That concludes the agenda items. We have two Board Business items to consider. The first is the lands of Zazon. This is a discussion of the subdivision plans

CHAIRMAN EWASUTYN: Bryant.

MR. COCKS: The Lands of Zazon was one of the applications that had final approval. They couldn't meet the conditions in the 360-day time period so they came back and went back to preliminary approval. Now they feel like they've met all the conditions and are ready for final approval. They did write a letter stating that they would like to go back to final. So we have no problem with that.

They will have various fees to pay. They will be able to defer the parkland fee and the landscape bond if they want. I did send notice so that if they choose that option they'll have to put the notes on the plans.

CHAIRMAN EWASUTYN: Mike Donnelly, would you present us with the resolution to grant -- why don't you talk about it.

MR. BROWNE: I just had one thought or

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comment. I saw the word reinstate in their comments. I think it needs to be made clear that we're not reinstating.

MR. DONNELLY: Reissuing. I agree.

MR. BROWNE: It might be a technical thing but just make -- thank you.

MR. DONNELLY: What I've done then is I've taken the resolution that had earlier granted continual final subdivision approval. Using it I have now changed the caption to put under final the word reissue. I've traced the history of the approval of both preliminary and final, the surrender of the final and the current request for reissuance of conditional final, noting that the plans remain unchanged. I've carried forth all of the same conditions as the original approval. I've added only one which is the permission to defer the parkland and/or the landscape fee because I think there were -- yes, both landscape and parkland fees were involved, to allow the deference of those if they add the required map note and the certification. Beyond that the resolution is the same.

CHAIRMAN EWASUTYN: Any questions from

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LANDS OF ZAZON

145

the Board Members?

(No response.)

CHAIRMAN EWASUTYN: Okay. Then I'll
move for a motion to grant final approval.
That's what we're doing I would guess; right,
Mike?

MR. DONNELLY: Reissue final approval.

CHAIRMAN EWASUTYN: Reissue final
approval for the Zazon subdivision.

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 Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

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(Time noted: 9:34 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: June 17, 2010

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

----- X

In the Matter of

CORNWALL BUILDERS
STEWART AVENUE SENIOR HOUSING
(1999-07)

Discussion of Approval of Caretaker Apartment

----- X

BOARD BUSINESS

Date: May 20, 2010
Time: 9:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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MR. BROWNE: The last item we have is Cornwall Builders, a discussion about the caretaker apartment putting the total count to 42.

CHAIRMAN EWASUTYN: I'll move for a motion to table this and to set it for the meeting of June 3rd.

MR. COCKS: Jerry checked.

MR. CANFIELD: I did check, John. The permit was issued for 41 units. The C of O that was issued was for the building permit for the 41 units.

CHAIRMAN EWASUTYN: Okay.

MR. CANFIELD: If you'd like I'll contact Mr. Lipstein and find out -- just verify exactly what he's asking for and then report back to the Board.

Also, perhaps if I could check with Mike Donnelly to see, it's my understanding as we had discussed at the work session that the Board had previously approved --

MR. DONNELLY: I gave Bryant my notes. I had the date but my notes reflect that we did.

MR. CANFIELD: Previously approved that

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second caretaker's unit. Then I can report back to the Board.

CHAIRMAN EWASUTYN: Okay. Then I'll move for a motion to table the action on this until our meeting of June 3rd, which would also be under Board Business.

MR. WARD: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of the 20th of May.

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MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by
Joe Profaci. Was that --

MR. WARD: Yes.

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

(Time noted: 9:38 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: June 17, 2010