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

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In the Matter of

THE MARKET PLACE AT NEWBURGH
(2007-35)
Route 300
Section 60; Block 3; Lots 41.3,41.4,48,49.1 & 49.22
Section 71; Block 4; Lots 8,9,10,11,12,13 & 14
Section 71; Block 5; Lots 9,15& 16
Section 97; Block 1; Lots 13.3 & 20.3
NYS DOT Map 746-Parcel 1142; NYS DOT Map 746-Parcel 1143;
NYS DOT Map 747-Parcel 1144; NYS DOT Map 747-Parcel 1145
IB Zone

----- X
PUBLIC HEARING
FOUR-LOT SUBDIVISION

Date: May 29, 2008
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
ALSO PRESENT: JOSEPH E. PROFACI
DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: DEBORAH POST

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

THE MARKET PLACE AT NEWBURGH

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MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of May 29, 2008.

At this time we'll call the meeting to order with a roll call vote.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Court Stenographer.

MR. CANFIELD: Jerry Canfield, Fire Inspector.

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

THE MARKET PLACE AT NEWBURGH

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

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

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

MR. BROWNE: Would you please join me in the Pledge to the flag.

(Pledge of Allegiance.)

MR. BROWNE: Would you also turn off your cell phones and pagers.

MS. HAINES: The first item of business we have tonight is The Market Place at Newburgh. It's a public hearing for a four-lot subdivision. It's located on Route 300 in an IB Zone. It's being represented by Deborah Post.

I'll ask Mr. 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

1
2 public hearing pursuant to Section 276 of the
3 Town Law on the application of The Market Place
4 for a four-lot subdivision on premises Route 300
5 in the Town of Newburgh, designated on Town tax
6 map as Section 60; Block 3; Lots 41.3, 41.4, 48,
7 49.1, 49.22, Section 71; Block 4; Lots 8, 9, 10,
8 11, 12, 13 and 14, Section 71; Block 5; Lots 9,
9 15 and 16, Section 97; Block 1; Lots 13.3 and
10 20.3, New York State DOT Map 746 - Parcel 1142,
11 New York State DOT Map 746 - Parcel 1143, New
12 York State DOT Map 747 - Parcel 1144, New York
13 State DOT Map 747 - Parcel 1145. Said hearing
14 will be held on the 29th day of May at the Town
15 Hall Meeting Room, 1496 Route 300, Newburgh, New
16 York at 7 p.m. at which time all interested
17 persons will be given an opportunity to be heard.
18 By order of the Town of Newburgh Planning Board.
19 John P. Ewasutyn, Chairman, Planning Board Town
20 of Newburgh. Dated April 4, 2008."

21 MR. GALLI: The public hearing
22 notice was published in The Mid-Hudson Times
23 on May 21, 2008 and in The Sentinel on May
24 23, 2008. The applicant's representative
25 sent out 132 registered letters and 126 were

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returned. The publications and mailings are all in order.

CHAIRMAN EWASUTYN: At this time I would like to introduce Deborah Post who will give a presentation on the four-lot subdivision. Deborah.

MS. POST: Thank you. Just by way of background, I'm sure many of you know that The Market Place at Newburgh is a 784,000 square foot retail center that's being proposed. On the western part of the site approximately 164,000 square feet of retail space is contemplated for the lifestyle center area, and on the eastern part of the site there's another 620,000 square feet in a big box format. The property is an approximate 129-acre site. It's located at the northeast quadrant of the intersection of Route 300 and I-84.

We are requesting a four-lot subdivision primarily because in today's market many of the larger big box stores, the national retailers, require that they own their own property underneath their buildings. This is primarily for financing reasons. So we've carved

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out lot 2 and lot 3 from the overall parcel to accommodate two prospective tenants that we have.

We also are carving out lot 4, which is a .4 acre lot which meets all the requirements of a single-family home lot.

Lot 3 also meets all the zoning requirements for a commercial lot.

Lot 2, because it's being carved out really out of the center of the property, has created the need for variances for lot 1 and lot 2. All of the variances that were required are internal to the site. We did go to the Zoning Board of Appeals and we received a variance -- all the variances that we requested on March 27th of this year. It's important to understand that although we're pulling out or carving out sites from within the larger parcel, the parcel really functions as one, and we will have reciprocal easement agreements among the tenants and with the owner. We also have submitted an agreement to the Town for their review. This agreement basically says that the Town only has to deal with one entity with regard to operation and maintenance of the facility.

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I think that's it unless -- if anybody has any questions.

CHAIRMAN EWASUTYN: Okay. At this point I'd like to turn the meeting over to Mike Donnelly, the Planning Board Attorney.

MR. DONNELLY: As you've heard, the proposal is primarily for a site plan. Just to orient you with what that means in terms of this evening's public hearing, the project has been here for several years. Public hearings were earlier conducted in regard to what's known as SEQRA, the State Environmental Quality Review Act. Those public hearings were intended to address the potential environmental impacts from the project. At the same time as those hearings were held we heard comment on the site plan, the proposal for the shopping center, and then more recently the Zoning Board held a public hearing on the variances that were needed as have just been described to you for the several lots that didn't meet certain requirements of the Code.

Tonight's public hearing is on the subdivision itself, the proposal to cut that piece of land into those four separate parcels,

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the large piece, two store lots and a potential single-family home lot. What the Board wishes to hear from you this evening obviously are your comments and concerns regarding the subdivision itself.

What will happen now that the applicant has given this presentation is the Chairman will call on anyone who wishes to address the Board. We ask, just so we have sufficient order, that you wait until the Chair calls upon you before you speak. The microphone looks tempting but it isn't on. If you could move up toward the front of the room it would help us to hear from you. We'd ask you to first give your name, and if you would for our Stenographer please spell it so we get it correctly in the transcript. We would also appreciate hearing your address so that we know where in relation to the project you live. It doesn't seem like there's a large crowd this evening so I don't believe that we'll need to place any limitations on how long each of you speak, but we would ask that if others have spoken and raised the same concerns, I'm sure the Board has heard them, you need not repeat them,

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but we certainly invite any new comment from anyone that does wish to speak.

CHAIRMAN EWASUTYN: Thank you. At this time we'll acknowledge the public. If you would raise your hand and give your name and address.

MR. GHIKAS: Michael Ghikas, I have property on Highland Avenue at the end of Hilltop. There's a few questions I want to ask.

CHAIRMAN EWASUTYN: Go right ahead. We can hear you. The mike doesn't work.

MR. GHIKAS: On this sub -- lots that they want, excuse my eyesight but this is all extended on 300, all the variations that they want for these lot subdivision within 120 some acres?

MS. POST: I'm not sure I understand your question. This is Route 300. This is I-84.

MR. GHIKAS: Can I come up?

CHAIRMAN EWASUTYN: Sure.

MR. GHIKAS: You proposed along here; right?

MS. POST: Yes. This is the exit right here.

MR. GHIKAS: The exit off of 300?

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MS. POST: Off of 84.

MR. GHIKAS: 84. This is Union Avenue
and this is 300?

MS. POST: Yes.

MR. GHIKAS: This is going to be off of
300?

MS. POST: This is 300 right here.
This is north.

MR. GHIKAS: Okay.

MS. POST: The Newburgh Mall is right
across the street.

MR. GHIKAS: Right. Okay. Now, you're
changing -- well, you propose -- why do you need
a variance for here? Why does the -- how was
this zoned prior to what you're asking?

MS. POST: This whole property as a
single parcel meets all the zoning requirements
except for signage. It required a signage
variance, which was also received. But in terms
of setbacks, the entire parcel met all the
setback requirements. This is kind of a
superficial, if you will, subdividing of the lot.
Lines are being drawn on a piece of paper so that
this tenant in this building, Building A, can own

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the real estate on which the building sits, so this is carved out. But any of the -- any of the variances that are required really are only relative to the buildings inside of the shopping center.

MR. GHIKAS: Did you get a variance or a release from American Tel & Tel that goes from here all the way out over to here?

MS. POST: No.

MR. GHIKAS: Well then how can you build it?

MS. POST: We've gotten -- well actually from Verizon we did get a release.

MR. GHIKAS: Not Verizon. American Tel & Tel.

MS. POST: Verizon I think has taken over from AT&T, so they're the ones. Any easements that are on this property have been taken care of or are in the process of being taken care of. Utilities.

MR. GHIKAS: Right, utilities. It goes from here --

MS. POST: There's one right here which is maybe the one that you're talking about.

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2 MR. GHIKAS: Right.
3 MS. POST: We did get that release from
4 Verizon.
5 MR. GHIKAS: Verizon took over from Tel
6 & Tel?
7 MS. POST: Yes. They're the ones who
8 are responsible for that easement at this point.
9 MR. GHIKAS: Did they sell you the
10 easement?
11 MS. POST: No. They just extinguished
12 it.
13 MR. GHIKAS: They did away with it?
14 MS. POST: That's right.
15 MR. GHIKAS: And the property that
16 you're going for was here and here, the one lot?
17 MS. POST: This is the property that
18 the tenant will own.
19 MR. GHIKAS: It goes right through this
20 line?
21 MS. POST: That line goes right through
22 it. Yes.
23 MR. GHIKAS: All right.
24 CHAIRMAN EWASUTYN: The lady in the
25 back.

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MS. STELZ-RIACH: My name is Elizabeth Stelz-Riach, S-T-E-L-Z - R-I-A-C-H, I reside at 106 Fern Avenue. In the earlier public meetings that we had it was determined that if any of the homeowners or the residents suffered any damage it would be Balter, Wilder that would be responsible. What now happens if we have a piece of property that's owned by one entity, another piece of property, does the homeowner then have to look at litigation through who caused my problem?

MR. DONNELLY: I can answer it, John. We are imposing a requirement and a document has been delivered that will carry it out that Wilder, Balter Partners and L.B. Interchange or W.B. Interchange, the corporate entities that own the mall, shall, after the subdivision, remain solely responsible for all of the obligations and all of the conditions of any approvals that the Town grants so that if there's a violation of a condition of the resolution of a Town Code requirement of a mitigation measure within the Findings Statement, that obligation remains on the owner of the mall itself and the Town or

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anyone else who has standing can insist upon performance by that corporate entity of those conditions.

MS. STELZ-RIACH: Thank you. Is that document available for the public to have a copy of?

MR. DONNELLY: I think thus far it's only been reviewed by Mark Taylor and myself. It certainly will be when it's finalized, and I think that will be soon.

MS. STELZ-RIACH: What would you perceive the timeframe of that?

MR. DONNELLY: I think what we've been waiting for is for the Planning Board to take action on the subdivision. It would be a condition that it be executed. So my presumption would be shortly after any approval is granted that would be available for examination.

MS. STELZ-RIACH: Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: If there are no further comments from the public, then I'll --

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MR. GHIKAS: I would like to ask one more question if I may.

CHAIRMAN EWASUTYN: Just for the record give your name one more time.

MR. GHIKAS: Michael Ghikas, Highland Avenue, Hilltop. When they proposed this mall they were going to dynamite because there's a lot of rock up there. How is the Planning Board protecting us and our homes that are there in case anything happens?

MR. DONNELLY: There were several specific measures imposed in the SEQRA Findings Statement. The first is bonding, insurance company bonding for the blasting activities, a pre-site inspection, compliance with the Town Code provisions regarding blasting. That's one segment.

Number two, in terms of sound impacts, there's a requirement that a fence designed to minimize the noise impact onto adjoining properties be installed prior to the commencement of the blasting activities in the area that would most likely suffer that impact.

Thirdly, there's an elaborate set of

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2 specific Findings regarding what would happen in
3 the event that the blasting activities damaged
4 any of the wells in the neighborhood, and there's
5 a whole series, a lengthy series of requirements
6 of what would happen, emergency water
7 immediately, remediation thereafter, so on and so
8 forth. It's all in the documents that at this
9 point are available for examination by the
10 public. We believe that there are a careful set
11 of what we call mitigation measures to ensure
12 both that the impacts will be lessened or
13 mitigated to the maximum extent practical and
14 affirmative measures required in the event that
15 the impacts become ones that cause damage
16 directly to those adjoining property owners.

17 MR. GHIKAS: Thank you.

18 CHAIRMAN EWASUTYN: This gentleman
19 here. Sir.

20 MR. GARY VANSPANGE: Gary Vanspange,
21 V-A-N-S-P-A-N-G-E, 131 Highland Avenue. The site
22 plan, have the ingresses and egresses already
23 been set in stone as to where everything is?

24 MS. POST: Yes. We've gotten approvals
25 from the State DOT for the three access points.

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There's one on Route 300, there's one up on Meadow Avenue, a roundabout is going to be created, and then there's one on 52 at Fifth Avenue.

CHAIRMAN EWASUTYN: The lady in the back. If you would give your name.

MS. STELZ-RIACH: Elizabeth Stelz-Riach. Would you clarify a fence for me? You just used the word a fence would be installed to mitigate sound.

MR. DONNELLY: A fence.

MS. STELZ-RIACH: A fence?

MR. DONNELLY: F-E-N-C-E.

MR. HINES: There's a ten-foot high sound barrier.

MS. STELZ-RIACH: A barrier, not a fence?

MR. HINES: For all intensive purposes it's a fence. It's a specially designed fence that's been reviewed by the consultants.

MS. STELZ-RIACH: That's what I was hoping he was referring to. A fence to me is a picket --

MR. DONNELLY: Don't ask a lawyer to

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answer a question.

CHAIRMAN EWASUTYN: Sir.

MR. ERIC VANSPANGE: My name is Eric Vanspange, same spelling. How will the traffic be impacted by the three ingresses or egresses, particularly on 52 because even now it's crowded? 300 at the worst hour it's a disaster area. There's so much traffic the drivers has to be blamed too, I'll admit that, because some of them are talking instead of driving because of the long workday most likely. It is horrible on Route 300, particularly by the mall area, and particularly if you have to cross from 300 over to -- over Route 52 and continue on Route 300 north.

CHAIRMAN EWASUTYN: Deborah, do you want to address that?

MS. POST: Excuse me?

CHAIRMAN EWASUTYN: Do you want to respond to that?

MR. BAINLARDI: John Bainlardi for Wilder, Balter Partners. The traffic impacts have been dealt with throughout the environmental review process and the site plan review process

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2 which started back in July of 2004. There's an
3 extensive document that's available online at the
4 Town of Newburgh website, it's called an
5 Environmental Impact Statement. There's also a
6 set of Findings that were the result of this
7 environmental study. Within the Environmental
8 Impact Statement there's a section on traffic and
9 the traffic impacts. All of the traffic was
10 studied at each one of these intersections, the
11 existing traffic, the likely traffic that will
12 result because of the improvements that have been
13 proposed, mitigation measures that were proposed
14 and the design both to create widening of lanes,
15 create new turn lanes, create traffic signals at
16 the entrance both at Route 52 at Fifth Avenue as
17 well as Route 300, the creation of a roundabout
18 at Route 52 at Meadow Avenue. All of these
19 issues were addressed throughout this site plan
20 process. What I would recommend is if you wanted
21 to learn more about this in detail you should
22 probably take a look at the Environmental Impact
23 Statement. There's a fair amount of information
24 in there both from our traffic consultant as well
25 as the Town's traffic consultant.

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MR. ERIC VANSPANGE: Is there also a time schedule already set for it? Will it be done prior to the construction of the mall or --

MR. BAINLARDI: Yes.

MR. ERIC VANSPANGE: -- after?

MR. BAINLARDI: As a condition of site plan approval the entrances and the access drives would need to be completed before any store could open.

MR. ERIC VANSPANGE: I meant the improvement on the roadways.

MR. BAINLARDI: Yes.

MR. ERIC VANSPANGE: That will also be done prior?

MR. BAINLARDI: It will be done prior to the opening of any store.

MR. GHIKAS: I would like to ask a question, too. If you have so much congestion coming out of Meadow Hill Road and Route -- down to Route 52 where Fifth Avenue is, what protections do we have that -- suppose we snafu for two or three hours every day. What is the Town doing to protect us? Can 52 be widened? No. So what's the impact?

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MR. DONNELLY: There is a requirement in that Findings Statement that an additional traffic study be done, I think it's at 80 percent occupancy or some amount of it, in order that just that issue can be studied if the actual traffic does not pan out to be what was projected. Obviously the first step would be to try to make what I'll call tweaks, adjustments in either the timing or the patterns, but if further improvements were required like you're talking about, then the State might have to widen the roadway.

MR. GHIKAS: And how would they do that?

MR. DONNELLY: Well I don't know the width of the right-of-way for the State on Route 52 or how they would accomplish that. They could take property. I have no idea. Obviously the idea is that if it doesn't work there will be further study and adjustments that will need to be made. There's also a contribution being made to fund a study and some other improvements that others are also contributing to, and I'm talking specifically about the Route 300/52 intersection

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which obviously needs additional improvements. The Town is trying to plan ahead to make additional traffic improvements that are caused by this development as well as other developments occurring within the area. So it's a long range plan.

MR. GHIKAS: Can I also ask these people what do they estimate the traffic flow is going to be? How much are they looking for? I heard some rumor or somebody told me that they're expecting 2,000 cars.

MR. DONNELLY: All of the information is in the traffic study, at each entrance the projected number of trips, the background trips, how many are projected to turn left, turn right. Each intersection is ranked in what's called a level of service for each of those turning movements. All of that data -- I can't give you a simple answer but all of that data for each of the entrances in each of the directions as well as the roadways that carry that traffic have all been studied and ranked.

MR. GHIKAS: And none of these -- none of these egress and ingress go into 84?

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MR. DONNELLY: Directly, no.

MR. GHIKAS: In other words, they have to come back into our Town?

MR. DONNELLY: Onto State Route 300 or Route 52, yes.

MR. GHIKAS: All right.

CHAIRMAN EWASUTYN: The gentleman in the back.

MR. DAVIS: My name is Russell Davis and I live -- D-A-V-I-S, I live at 145 South Plank Road. My question actually is to the representatives of The Market Place. The project is going to be, if I'm correct, done in certain stages. In other words, the part closest to 300, am I correct, will be first and then the ones back towards the back, which is towards 52, or is it all going to be done at the same time?

MR. BAINLARDI: There are, I'll call them phases. I'll use that term lightly. It's not -- the project itself is not contemplated to be built in true phases. In other words, this project wasn't designed that says we're going to build phase I and come back at some point in time in the future and build phase II. The project is

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2 going to be constructed in phases from a site
3 work standpoint. One of the reasons for this is
4 the Department of Environmental Conservation
5 requires a stormwater pollution prevention plan
6 and only allows certain parts of the property to
7 be opened up at a time, stabilized and then you
8 move on to the next piece. So there are phases
9 for site work. Site work will happen
10 continuously over roughly a twelve to eighteen-
11 month period. Once all of the site work is
12 complete, the infrastructure is in, the roads are
13 in, the utilities are in, then vertical
14 construction will take place.
15 Will all of the buildings be going up
16 simultaneously, perhaps not. It depends upon the
17 extent of leasing at that point. But the
18 likelihood is that the lion's share of the
19 project will be commenced in a continuous phase.
20 If there was a building in which pads were
21 developed but no tenant was available and
22 economics dictated, there could be a decision to
23 hold off on constructing that building until a
24 tenant is located. But notwithstanding the
25 current environment, leasing activities have been

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going well. We do have a number of buildings that we have deals with with a number of different retailers. I hope that answers your question.

MR. DAVIS: No. The reason I asked that question is I want to know if the entire parcel would be like cleared in the very beginning. I'm mainly concerned about drainage because it's right up against my backyard. I want to make sure that the drainage system is going to be done on the entire parcel with those retention or detention ponds and all that on the back side of it.

MR. BAINLARDI: Actually, the first component of the project that will be constructed will be the detention basin. The stormwater systems are right at the beginning of the process. You know, there will be some clearing to get into -- to create haul roads to get into the property. There will be clearing in the area of the detention basin to construct the detention basin. After the first two phases are complete, then some blasting activity will begin but not before the sound barriers have been installed.

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With respect to Route 300, we have a 150-foot buffer that will remain undisturbed so that until such time as we're prepared to construct the lifestyle center there will be no disturbance on 300 other than the entrance to the construction entrance.

MR. DAVIS: Do you know offhand what the buffer is off the 52 side?

MR. BAINLARDI: The property in the rear. You have 100 foot undisturbed buffer which is a vegetative buffer. In addition to that you have another 50 feet by law, Town Law, for the building setback. We actually -- I think we're more around 85, an additional 85 feet before you hit the rear of the building.

MR. DAVIS: Okay. Thank you.

MR. GHIKAS: Is there --

CHAIRMAN EWASUTYN: Sir, there's a sense of order. I would ask you to keep with that. I would like for you to raise your hand because there may be someone in the audience who hasn't spoken who would like to speak and then we'll -- is there anyone here in the audience this evening who hasn't had the opportunity to

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 speak that would like to speak?

 The lady in the back.

 MS. SCOFIELD: Kathleen Scofield,
S-C-O-F-I-E-L-D, 13 Brookside Avenue. Can you
explain the residential lot you were talking
about please?

 MR. BAINLARDI: The residential lot
consists of basically the four properties which
were purchased on the southern side of Brookside.
Those have been combined into a single lot for
the construction of a single-family home. That
would require us to go back to the, you know, the
building department application for the Board.
So there's no approvals for that at this point in
time. Part of that property which was purchased
will also be utilized for the creation of a new
cul-de-sac because we're shortening Brookside.
So when we had this residential piece left, we
are proposing that it be consolidated into a
single-family portion.

 CHAIRMAN EWASUTYN: Mr. Ghikas.

 MR. GHIKAS: Yes. Is the Town
supplying all the water or is there going to be
wells driven on that property also?

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MR. BAINLARDI: Municipal water is proposed for --

MR. GHIKAS: No wells?

MR. BAINLARDI: No wells, unless there's irrigation which is not currently proposed. Irrigation would require that we drill wells.

MR. GHIKAS: And that water is coming in from 300?

MR. BAINLARDI: Correct.

MR. GHIKAS: Okay. Thank you.

MR. HINES: It's coming in from both 300 and 52 and looping through the site.

CHAIRMAN EWASUTYN: Sir.

MR. GARY VANSPANGE: I'm wondering what the intended start date would be for this, what we're looking at.

CHAIRMAN EWASUTYN: Do you have a projected start date?

MR. BAINLARDI: I don't know. I don't think we have a projected start date. At this time it's going to require that we first obtain a final site plan approval which will be subject to some conditions. The main conditions are the

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2 securing of any outstanding agency permits, which
3 are all in process. Once we meet the necessary
4 conditions in order to be able to get the final
5 site plans signed by the Planning Board Chairman,
6 at that point in time we would then be able to
7 move the ground. Optimistically I would hope
8 that that could happen this year.
9 CHAIRMAN EWASUTYN: Ma'am.
10 MS. GHIKAS: The water.
11 CHAIRMAN EWASUTYN: Ma'am, for the
12 record.
13 MS. GHIKAS: Vaughn Ghikas. I own
14 property on Highland Avenue. If the water is
15 coming municipal from Route 52 and 300, how on
16 Route 52 are you going to get it up into the land
17 that you need?
18 MR. HINES: It's proposed to follow the
19 project access drive from the vicinity of Meadow
20 Avenue into the site.
21 MS. GHIKAS: It's going from Meadow
22 Avenue --
23 MR. HINES: Meadow Avenue, Route 52
24 interchange looping through to Route 300.
25 MS. GHIKAS: But where is that loop

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going to be?

MR. HINES: It's going to go through the site. There's going to be an access road created at Meadow Avenue coming into the site and then it will continue up to the main access road.

MS. GHIKAS: It's going from 52. I still don't understand.

MS. POST: If you want to see visually. This is the existing Route 52. It's going to come down through here.

MS. GHIKAS: Where -- it's going to be going up through Highland Avenue or --

MR. HINES: From 52.

MS. GHIKAS: Where on 52 is it going to go into your land?

MR. HINES: 52 and Meadow Avenue.

MS. GHIKAS: And Meadow Avenue?

MR. HINES: Yes.

MS. GHIKAS: Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: At this point I'll turn the meeting over to our consultants. Jerry

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Canfield, do you have any comments at this point?

MR. CANFIELD: Nothing on the subdivision.

CHAIRMAN EWASUTYN: Thank you. Pat Hines?

MR. HINES: Our previous comments on the subdivision have been addressed. We previously commented on Brookside Road and the lot 4, the residential parcels which have now been combined into one residential parcel and the balance of the property being dedicated to the Town.

Additional detail has been shown on the plans that was requested by the consultants and the Board showing the location of the proposed buildings in relation to the proposed property lines. Metes and bounds were lacking on the first submission. Those have been provided in all locations where they are required.

The necessary variances were granted from the Zoning Board, and I know the Planning Board has received those notification of those variances.

With that we have no outstanding

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comments on the subdivision.

CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant?

MR. COCKS: There are just a couple
clean-up items that are going to need to be on
the plans before they can be approved for final
subdivision approval. That includes adding notes
on the plans regarding cross access easements for
the adjoining lots, which are the Spagnoli
property on 52 and also the C.B. Driscoll
property. Those are going to be added to the
plans and notes regarding access.

The bulk tables are going to be revised
to show the variances that were granted by the
Zoning Board.

As mentioned, they're going to make the
cul-de-sac at Brookside 70 feet instead of
90 feet. That has to be adjusted on the plans.
Lot 4, the dimension is going to be adjusted
slightly because of that.

There's also going to be a note on the
plan regarding the issue of maintenance by one
entity for the whole site.

Other than that we have no issues.

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CHAIRMAN EWASUTYN: Karen Arent,
Landscape Architect?

MS. ARENT: I have no comment on the
subdivision.

CHAIRMAN EWASUTYN: Ken Wersted,
Traffic Consultant?

MR. WERSTED: No comments. They were
addressed by Bryant.

CHAIRMAN EWASUTYN: Okay. For the
record, we received two letters in reference to
the public hearing.

Mike Donnelly, would you discuss them?

MR. DONNELLY: The first of those is
from a neighboring property owner by the name of
Erik, E-R-I-K, Niedritis, N-I-E-D-R-I-T-I-S. Mr.
Niedritis's comments relate to fire protection,
water and sewer availability to his adjoining
property. I do not think they relate to the
subdivision application but we should take up
this letter and have your consultants comment
upon it before you resume processing of the site
plan application.

The second letter that you received is
a letter from the law firm of Keane & Beane who

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2 represent neighboring property owners. I would
3 summarize the letter by saying that it is the
4 contention of Keane & Beane that you may not act
5 on this subdivision without reopening the
6 environmental review process by means of a
7 Supplemental Environmental Impact Statement.
8 They base that claim on the fact that the
9 subdivision was not specifically addressed in
10 either the Environmental Impact Statement or in
11 the Findings Statement. While I concede that
12 that is true because the subdivision application
13 was then not before the Board, at an earlier
14 meeting, I think it was either March or April, I
15 don't recall the date, you had your consultants
16 report to you as to whether or not any of the
17 aspects of the subdivision presented any new or
18 different environmental impacts than had been
19 addressed in the Environmental Impact Statement
20 originally or that needed to be addressed in the
21 Findings. The recommendation of your consultants
22 was that there were no such new environmental
23 issues. You issued what I will call a SEQRA
24 consistency determination, and that is a written
25 conclusion that the subdivision proposal was --

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2 is, I'm sorry, within the scope of the earlier
3 environmental review and is not prohibited by any
4 of the SEQRA findings. That document was
5 distributed as required by the State
6 Environmental Quality Review Act. Therefore, the
7 allegation that there was no SEQRA compliance I
8 think misses that document. I don't know why
9 Keane & Beane haven't seen it. That is the
10 required procedure for the Planning Board to
11 follow, to assess any new or different impacts
12 that result from a project amendment or
13 superseding the application. You did that at
14 that time. So my recommendation is that you need
15 not carry out any further SEQRA compliance based
16 upon that finding.

17 CHAIRMAN EWASUTYN: Comments from Board
18 Members at this time. Frank Galli?

19 MR. GALLI: Nothing on the subdivision.

20 CHAIRMAN EWASUTYN: Cliff Browne?

21 MR. BROWNE: No.

22 CHAIRMAN EWASUTYN: Ken Mennerich?

23 MR. MENNERICH: No.

24 CHAIRMAN EWASUTYN: Joe Profaci?

25 MR. PROFACI: Nothing.

THE MARKET PLACE AT NEWBURGH

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2 CHAIRMAN EWASUTYN: Final comments from
3 the public?
4 (No response.)
5 CHAIRMAN EWASUTYN: Frank, you reported
6 on the mailings; correct?
7 MR. GALLI: Yes.
8 CHAIRMAN EWASUTYN: I'll move for a
9 motion from the Board to close the public hearing
10 on the four-lot subdivision for The Market Place
11 at Newburgh.
12 MR. GALLI: So moved.
13 MR. PROFACI: Second.
14 CHAIRMAN EWASUTYN: I have a motion by
15 Frank Galli. I have a second by Joe Profaci.
16 Any discussion of the motion?
17 (No response.)
18 CHAIRMAN EWASUTYN: I'll move for a
19 roll call vote starting with Frank Galli.
20 MR. GALLI: Aye.
21 MR. BROWNE: Aye.
22 MR. MENNERICH: Aye.
23 MR. PROFACI: Aye.
24 CHAIRMAN EWASUTYN: And myself. So
25 carried.

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At this time I'll turn to our Attorney, Mike Donnelly, to give us conditions of the approval and the resolution for The Market Place at Newburgh.

MR. DONNELLY: This is the subdivision resolution. It will recite the history of the application, the compliance with the SEQRA requirements. I placed this resolution on the desks of the Members this evening as well as that SEQRA consistency determination.

The project was required, in the early stages, to be referred to the Orange County Planning Department under Section 239-M of the General Municipal Law. That was done and the Orange County Planning Department reported that this is a matter for local determination. In the abundance of caution, when the subdivision application came before the Board we sent it to the Orange County Planning Board again, and although they had an opportunity to report if they had any change, recommendation or classification, they have not done so in the thirty-day time period within which they are permitted to make such report or recommendation

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and has now passed.

The conditions of the resolution will require a sign-off letter from Bryant Cocks that the relatively minor clean-up changes to the plans have been made, and until that letter is received the plans can not be signed. We will make mention in the resolution that the conditions that were imposed as part of the SEQRA process and those contained within the preliminary resolution of site plan approval remain conditions and no construction can begin until those conditions are satisfied, as well as any conditions that will be imposed as part of any final site plan approval that's granted. We will make reference to the ZBA variance decision that allowed this subdivision to move forward. We will, as has been mentioned already, require that a simplified Town/owner agreement satisfactory to the Town Attorney be delivered. As Deborah Post mentioned, a draft of that agreement has been delivered. I don't believe that there are any outstanding objections to its terms. The intent of that agreement is what we talked about earlier, to ensure that the

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2 developer will remain responsible for compliance
3 with all of the requirements of the approval.
4 The next is a reciprocal easement agreement that
5 authorizes the owners of the lots to travel
6 across the lands of the owner to access those
7 lots, as well as a requirement that each of those
8 owners, as between the mall owner and those lots,
9 is responsible to comply with the conditions of
10 the resolution of approval as well. There are
11 certain lands shown on the plat as to be offered
12 for dedication to the Town, and before the plat
13 is signed offers of dedication satisfactory to
14 the Town Attorney will need to be delivered.
15 Beyond that, the standard conditions regarding
16 satisfaction of the conditions and payment of any
17 outstanding fees will be included within the
18 resolution.

19 CHAIRMAN EWASUTYN: Comments from Board
20 Members in reference to the resolution that was
21 just presented to us by our Attorney Mike
22 Donnelly?

23 MR. GALLI: No.
24 MR. BROWNE: No.
25 MR. MENNERICH: No questions.

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MR. PROFACI: No, thank you.

CHAIRMAN EWASUTYN: I'll move for a motion to approve the four-lot subdivision for The Market Place at Newburgh subject to the conditions stated by our Attorney, Mike Donnelly, in the resolution.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

I would like to thank everyone this evening for participating in the public hearing process.

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

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

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

DATED: June 10, 2008

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

----- X

In the Matter of

JWCAH EDUCATIONAL CENTER
(2008-08)
23 Unity Place
Section 97; Block 2; Lot 42
IB Zone

----- X

AMENDED SITE PLAN

Date: May 29, 2008
Time: 7:46 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE

----- X

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

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MS. HAINES: The next item of business is the JWCAH Educational Center. It's an amended site plan located at 23 Unity Place in an IB Zone. It's being represented by Vincent Doce.

MR. DOCE: I have with me this evening Jeff Baker of the Witnesses, I have Richard Eldred. Jeff Gordon was just bringing his stuff in. I think he bumped into the people that were just leaving. Jeff will be doing most of the address tonight.

As you recall, we were here several months ago. We met with your consultants early in mid April and we have addressed most, if not all, of the items as presented by the consultants. I understand from the reviews this evening that the Traffic Consultant, the Engineering Consultant, the Planning Consultant and the Fire Inspector have agreed that the items have been addressed except for a few minor items which they felt could be addressed during the approval -- within the approvals.

We understand that there is some question of addressing Karen Arent's, some of her

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comments. Jeff Gordon here this evening will, and Richard Eldred will address Karen's items so that they can also be satisfactorily put to bed.

Jeff, if you -- I mean whatever you guys do. Do you want him to speak?

CHAIRMAN EWASUTYN: I think we'll start with our consultants. We'll do it that way.

Ken Wersted, your comments please.

MR. WERSTED: Most of our previous comments have been addressed. We have three outstanding comments, or additional.

The first is there needs to be some paving striping shown on the north end of the site adjacent to the one-way angled parking that's being proposed. There are some arrows shown at the locations but there aren't any shown in the direct area.

Second, we had requested that the elevations of the proposed sidewalk connection from the overflow parking lot down to the main building be provided. Based on some calculations of those grades it appears that the walk -- sections of the walkway are approximately a nine percent grade. There appears to be some room to

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lengthen that connection to provide a more pedestrian friendly grade. We provided a couple of different options, you know comments that the applicant may want to consider to provide that.

Lastly, there is a new metal guiderail proposed along Unity Place at the northwest corner of the project. On the site plan it's typical to distinguish how long and where that guiderail is placed because the line is on top of the property line. So if that can be highlighted better. In addition, to protect drivers from the drainage basin adjacent to it the length of the guiderail needs to be extended in the beginning and end. That needs to be adjusted. As part of our review we've also provided a sketch on that.

In addition, the curve of that section of road needs to be determined. The size of the curve helps influence what kind of guiderail goes in there, whether it's a straight section guiderail that's broken into tangents or whether it's a sharp curved piece of guiderail, and that needs to be determined and shown.

There's two other just clean-up items. One was some of the measurements on sheet SP-9,

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when it was being converted from the DOT standards onto the box I think some of the measurements in millimeters may have gotten mislabeled.

The end sections should be of the type II type which is on the site plan or on SP-9. There's actually two different types on there, type I and type II, and we recommend the type II be used for the project.

That was the extent of our comments.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: An inventory of existing plants and spruces that were supposed to be transplanted along the easterly property line should be listed on the plan for a record of what was transplanted. These trees are proposed to screen the property from the adjacent residential neighbors for the first phase of the project, so they need to be maintained in good condition, and we need an inventory to request replacement if any of these trees die.

Evergreen screening should continue approximately forty feet west of the proposed screening to screen the parking area from the

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residential to the south of the site.

The deciduous trees should be specified along the southerly property line since those proposed around the existing trees, they might not live, the trees might not live, therefore additional deciduous trees must be specified in accordance with the tree requirements. It's one for every eight spaces.

I understand the mulch was added to the tree detail as requested, so that comment is not valid.

I'm asking for some survey -- some construction fencing -- sorry. I'm asking for some notes on the construction fencing detail to survey and mark the clearing limit line as we ask for most all other projects, and to install the orange safety fencing to keep construction out of the areas where the existing trees will be protected. There's no storage of equipment or materials inside the clearing limits. The fencing should remain in good condition for the duration of the construction period. In accordance with the buffer regulation, to write this on the drawings so that the contractors are

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aware that they will be required to replace any trees within protected areas that they clear with trees equal in diameter and breast height.

Then I asked for a standard warrantee information to let the contractor or the volunteers know that whatever they're installing must live for a two-year period. We found that making the -- making people aware that the plants have to live for at least two years helps them to put in better soils and better quality plant material. So we're asking for the notes to be put on the drawing as well as notes to say when a replacement is required. For example, if a tree is more than 25 percent dead or the main leader dies it is necessary to be replaced.

I'm also asking for the bond to be held in accordance with the regulations. Bonds are held on every project in order to make sure that the planting is performed as shown on the plan as well as to make sure it lives. Every single project that I've worked on with this Board has held a bond for landscaping, so I'm just asking for that.

CHAIRMAN EWASUTYN: Bryant Cocks,

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Planning Consultant?

MR. COCKS: Yes. The applicant has addressed most of our comments. Just a couple issues that were addressed.

There was an issue with the maximum lot building coverage. There's a question of whether they were over the 60 percent maximum requirement. The applicant actually indicated that they were at 56.4 percent, so that was fine.

There was another issue regarding how far this is away from the Town of New Windsor, which would trigger referral to the Orange County Planning Department. The Orange County tax maps actually have the wrong scale on it and this project is over 500 feet away so it does not have to be referred.

The applicant is currently not proposing lighting in the parking lot. This is going to be an overflow lot which is going to be used for big events that are going to be during the daytime, so they haven't proposed lighting. We would like to see a note on the plans saying that if lighting is proposed or installed they would have to come back to the Planning Board to

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review the site plan and to review the type and intensity of the lighting.

A survey sheet signed and sealed is also going to be needed for final approval.

That was all.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Our first comment had to do with the guiderail which Ken Wersted has addressed.

We reviewed the revised stormwater management report and plans. They have been coordinated together with -- the pipe lengths, elevations, et cetera have been coordinated. The stormwater management report is acceptable.

In lieu of providing the aquatic safety benches the applicants have proposed to fence the detention pond. We spoke of that at work session and found the detail of that fence was acceptable.

A hydrant has been shown on the plans, a detail for the hydrant, the water main installation, and I've provided the Town standard notes to the applicant's representative to be

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added to the plans.

The concrete curb detail, just a clean-up item there. It specifies both class A and C concrete. We're just noting the 3,000 pound minimum boundary is required by the Town.

Two types of guiderails are shown. We're asking that the wooden guiderail and the proposed DOT metal guiderail be called out specifically on the plans.

The area on the parking lot identified as a snow shelf overflow should be provided with a mountable curb or a drop curb type detail along that area, and that needs to be both detailed and shown on the plans.

They're pretty much clean-up items. At this point they've addressed our substantial comments.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing additional to add.

CHAIRMAN EWASUTYN: Gentlemen.

MR. GORDON: Mr. Chairman, commissioners, staff, my name is Jeffrey Gordon, I'm president of Codispoti Associates. I'm a

1
2 licensed landscape architect here in the State of
3 New York. We believe that we have addressed most
4 of the substantial comments and are of course
5 willing to do all the other items that have been
6 requested of us.

7 We apologize for the difficulty in
8 reading the guiderails. We will certainly
9 graphically clear that up so it's more readily
10 available for you to understand. We have labeled
11 that one as a metal guardrail down here by the
12 detention pond but all the guiderails along the
13 parking lot are labeled as post and rail
14 guiderails. The wood is up here and the metal is
15 down by the pond. There was no other plan. If
16 we want additional labels we can certainly add
17 that as well.

18 MR. HINES: That's fine. I don't think
19 I saw the one up in the upper right-hand corner.

20 MR. GORDON: Right there. Yup. Okay.
21 And we appreciate -- we received the details for
22 the water system and we'll certainly incorporate
23 that in the plans.

24 We'll also make reference on our curb
25 detail about the class and the pound weight of

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the curbing.

Also, the mountable curb really is -- it says no curb. There's no curb revealed but it basically would be a standard curb recessed to be flush, that way it would contain the end of the asphalt and contain the end of the lawn area so we have a crisp edge over there, and then when the plows come in there they will not be ripping up the lawn area or ripping off the edge of the asphalt.

MR. HINES: That's fine. Just show a detail of that.

MR. GORDON: Not a problem. I'll be certainly happy to do that.

The other comments about adding notes, certainly we're happy to do that. The notes that were requested will be incorporated.

The note for lighting, the only thing that we might do during construction, again there's no plan for lighting but what we might do is put some schedule 40 pipe underneath the asphalt while it's being built so if there ever is a future desire to put lighting in there you won't have to rip up the asphalt to run a new

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wire. There is no plan now but that might be something that would be prudent to do. I just wanted to point that out.

As far as the comments on the fencing, we have our limits of construction noted and I thought that I had given the detail for the fencing, the orange safety fence, but we will add notes to give -- here's my construction limit fencing here on sheet SP-6. This is for the orange plastic mesh fence that I believe was referred to. That detail is shown and is to be located on all the construction limits. We certainly agree with the protection of keeping heavy equipment and not compacting soils.

What we also added after Ms. Arent's comments, I just happened to go to a Cornell University planting program and I got a revision to the planting detail which allows us to excavate out beyond the normal planting pit in order to keep roots from going into a little saucer cup and dying three years down the road. It gives them ability to spread their roots out a little further. This is a detail that the extension school is recommending, so we're going

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to implement that here as well.

I still also want to clarify that this is not a project where contractors are going to be hired and brought in. When we speak of volunteers we're not talking about people who are coming in off the street. These are volunteers who happen to be people in the nursery trades, in the landscape maintenance trades, and you'll wind up with a higher level of skilled labor as opposed to when you hire somebody you get one foreman and ten people who you don't know where they come from. Here you're going to have people of a very high grade of experience, and I think that is evident by the quality of the development that you see there now. So we want to assure that you're going to be getting very, very good quality work here again.

Other than that, all these notes -- the only other thing that I had been considering, I just -- on the inventory of the trees I was of the opinion, and maybe this is a little bit different than what Ms. Arent was asking for, that we inventory them as we move them because then we're going to know when we foul one up to

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2 the point we're not going to use it, we mark that
3 one and then we know we have to replace that at
4 the time. That's how I've done it in the past,
5 as we are moving trees we see how the move is
6 going and if we're not going to do well with that
7 one we just mark that one off and replace it with
8 one in kind and that way you have more of an as-
9 built drawing that lists what was moved, what was
10 lost, what was replaced. Either way is fine.
11 That has been for me a better way to monitor the
12 progress of the work.

13 Other than that, I think all the other
14 comments we concur with.

15 I did add some more evergreen trees. I
16 added a few more down here. I guess we can add
17 probably three or four more to give you that full
18 coverage that you requested. Other than that, I
19 think we've covered pretty much all the bases.

20 CHAIRMAN EWASUTYN: Karen, do you have
21 anything to add to that?

22 MS. ARENT: For recordkeeping for the
23 Town I think we need an inventory of the trees
24 that exist today so that we know they're exactly
25 put back. You're welcome to make an inventory

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when you're moving them as well but we would need a record on the plan saying what is in that area. Just, you know, an arrow and a list saying the height and the species.

MR. GORDON: I was just concerned it's going to be a very busy drawing.

MS. ARENT: You can make a separate chart just like you do a plant list and label inventory of existing spruces and pines.

MR. GORDON: We're open to either.

MR. BAKER: I might add we did a chart before when we did the previous landscaping, so we're happy to do a chart type of thing. I think, if I understand it correctly, Ms. Arent uses that information to verify the bond that's going to be used for the landscaping process. We posted a landscaping bond before and we're happy to do that again on this project.

CHAIRMAN EWASUTYN: Thank you.
Anything else?

(No response.)

CHAIRMAN EWASUTYN: Board Members.
Frank Galli?

MR. GALLI: No additional.

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MR. BROWNE: I think he covered it all.

MR. MENNERICH: Nothing.

MR. PROFACI: No, thanks.

CHAIRMAN EWASUTYN: The Board has the responsibility with site plans, it's discretionary, as to whether or not we want to have a public hearing. I'll poll the Board Members to see if they want to have a public hearing.

MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Myself no.

Having heard the comments from our Consultants, having listened to Mr. Baker as far as agreements to respond to our Consultants' review comments, that being satisfactory at this time, I'll move for a motion to declare a negative declaration for the amended site plan for JWCAH Educational Center.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

At this time I'll turn to Mike
Donnelly, Planning Board Attorney, to give us
conditions for approval and a resolution.

MR. DONNELLY: My first question is
whether this technically involves an ARB
component. I take it since there's no structures
it does not.

MR. HINES: I don't believe so.

MR. DONNELLY: All right. This is
really an amended site plan approval, and that's
what the resolution will state. Although I don't
have a copy of the original resolution, we'll
carry forward any conditions that were proposed

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2 when it was granted approval. It will need
3 sign-off letters from the consultants as we heard
4 this evening. We discussed at the work session
5 that because there is no lighting shown on the
6 plan, because you don't propose to use it at
7 night, we're going to carry a condition that says
8 there is no lighting shown on the plan, therefore
9 no lighting may be installed without an amended
10 approval from this Board, so if you change your
11 mind in the future you'll need to return. We
12 will need a landscape security.

13 Is there a stormwater improvement
14 security required here or no?

15 MR. HINES: Yes, there would be. It
16 would be the minimum \$2,000.

17 MR. DONNELLY: And the usual
18 requirement that no outdoor fixtures or amenities
19 not shown on the plan could be installed.

20 That's it.

21 CHAIRMAN EWASUTYN: The landscape bond
22 estimate would have to be approved by the Town
23 Board.

24 MR. DONNELLY: Yes. The usual
25 condition in that regard, yes.

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CHAIRMAN EWASUTYN: Having heard conditions for final approval and the resolution by Attorney Mike Donnelly, I'll move for that motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you.

MR. DOCE: Thank you very much.

(Time noted: 8:07 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 10, 2008

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

----- X

In the Matter of

YOLANDA DAVIS
(1997-01)
Leslie Road
Section 26; Block 6; Lot 16

----- X

CONCEPTUAL SKETCH PLAN

Date: May 29, 2008
Time: 8:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman

FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.

BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: CRAIG MARTI

----- X

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MS. HAINES: The last item of business tonight is Yolanda Davis. It's here for a conceptual sketch plan for a 22-lot subdivision. It's located on Leslie Road and it's being represented by Craig Marti.

MR. MARTI: Thank you. The Yolanda Davis subdivision presented here tonight has been before the Board over a period of -- over the span of a decade. I believe it goes back thirteen or fourteen years. Our purpose for our initial application is the development of a sketch plan at this time. The presentation of the sketch plan at this phase is to update the new Board Members, the new consultants. There may be I believe only two or three of us who were around at the project's inception. I was not, however, the engineer on the project at that point in time.

The proposal as it stands is to develop roughly two parcels which are separated by a piece of property which is owned in kind by Central Hudson Gas & Electric. The proposal is to look at the development of both a 10-acre parcel and roughly a 20-acre parcel. It's

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2 roughly 30 acres in total. It will require the
3 construction of an access road off Leslie Road
4 which will entail some minor lot line adjustments
5 with an existing owner and some access easement
6 agreements which will be modified or abandoned in
7 conjunction with the development of the new road
8 for both an internal parcel which is owned by Mr.
9 Weiss, and there may be some access agreements
10 for an adjoining parcel to the east of the
11 entranceway.

12 The proposal is to serve the lots with
13 individual septic systems and an extension of the
14 Town municipal water system. That water system
15 has been designed based on prior preliminary
16 approval. It got into the review process at the
17 County level. I'm not sure that that was
18 completed. Basically we'll go back and revisit
19 that proposal, use that as a starting point to
20 initiate discussions with the Town and the Town's
21 consultants as far as the development of a new
22 water system to serve the property.

23 It's anticipated that the stormwater
24 management areas, there will be at least three
25 areas which will utilize standard stormwater

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management practices to mitigate any adverse potential impacts or runoff from the development site.

The area is also encumbered by a small wetland area. It's a wetland by Federal jurisdiction. I don't believe it's listed as a State wetland. I don't believe it's on the proposed map revisions as well. But that area will have to be evaluated in detail as well as some of the steep slope constraints and rock outcrops which have been mentioned in the consultants' reviews which may impact the final orientation of the lot lines and the site as the project is developed in detail.

We have received comments from the consultants. I do concur with the items that they have indicated that will need to be addressed in the preliminary development of the plans for the preliminary stage. I look forward to any comments that the Board Members may have as far as incorporating their concerns into the plan development as well.

CHAIRMAN EWASUTYN: I think before we go back to Pat Hines' comment as far as the

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2 Central Hudson easement, Ed Garling who isn't
3 here tonight, I'll have Bryant Cocks speak on
4 behalf of Ed, many, many years ago there was also
5 the need and necessity for agreements that are
6 apparently -- at this point I don't know if you
7 ever obtained them.

8 Bryant, why don't you just speak more
9 clearly on that and then we'll have Mr. Marti
10 talk about them.

11 MR. COCKS: In the previous submission
12 I guess a lot of work was done regarding lot
13 layout. I know it's changed now. The main issue
14 that was never resolved before it got final
15 approval was the Central Hudson parcel and how
16 the roadway -- the proposed roadway is going to
17 cross it, and also two adjacent residences, which
18 are the Weisses and Donovans, who currently use
19 this parcel as access for their driveways to get
20 onto Leslie Road. So those agreements were never
21 reached. Those were basically the last things
22 preventing this from getting approved. Before
23 this really goes any further we're going to need
24 to get those agreements in place.

25 MR. MARTI: Yes. Some work was done I

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2 believe to reconfigure the driveway access to the
3 adjoining lot here. There was discussion which
4 broke down. I believe that the last proposal was
5 a reduction in lot count of four or five lots to
6 basically just the first portion of the project.
7 As you stated, those agreements never did get
8 completed. The project was basically withdrawn
9 at that point, fell dormant. I have had
10 discussions with Mr. Weiss. It's anticipated
11 that -- he's indicated he's willing to work with
12 us as far as providing access to him. He had been
13 willing to work with the previous engineers and
14 the like. There was a breakdown at the end. So
15 it is anticipated that those agreements would be
16 finalized. The exact need for those and the form
17 that will take will be based upon the final lot
18 arrangement and an updated survey so we know
19 exactly within our scope of work what the proper
20 boundaries are and what easements and what
21 agreements have to be modified or amended.

22 CHAIRMAN EWASUTYN: What about Donovan?

23 MR. MARTI: I believe Donovan is this
24 adjoining owner here. I believe there was some
25 construction actually done to provide access to

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him without this. There will need to be some consideration because I anticipate that there probably will be a desire to serve his property off the new road as well.

CHAIRMAN EWASUTYN: Have you had contact with him?

MR. MARTI: I have not personally had contact with him. I know there's a history of contact. Mr. Matarazo is here tonight. He's the local representative for Mr. Davis. I'm sure that will be an ongoing part of the detailed subdivision design.

With regard to Central Hudson, we have had conversations or correspondence with Central Hudson indicating that they are willing to work with us as far as crossing their property. They have not indicated a willingness to sell the property or cede the property to the developer at this time but they have indicated a willingness to work with us. In fact, they have -- having had a significant amount of time pass since the prior proposals and this current effort, within the last year the property owner has received a letter from Central Hudson asking what the status

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2 is and asking if they wanted to keep that active,
3 and still expressing a willingness to work with
4 us to cross that property. I understand the
5 concerns Pat has raised with regard to the
6 ownership and dedication of the roadway area, and
7 that I'm sure between Central Hudson, the
8 Planning Board Attorney, Town Attorney we can
9 find language which will satisfy everyone's
10 requirements.

11 MR. DONNELLY: On that last point, I'll
12 just say quickly you're going to need to visit
13 the Town Board and the Town Attorney. Generally
14 speaking, if it's to be offered for dedication to
15 the Town, the Town is going to require a fee
16 interest, and if that can't be accomplished you
17 may have to change the roadway character to
18 something other than a Town road.

19 MR. MARTI: Right. Also with regard to
20 the roadway, it's anticipated, as Pat has pointed
21 out, there will be waivers required with regard
22 to the length, the steep slope characteristics.
23 An analysis will be done, an evaluation of
24 whether or not slightly steeper slopes with
25 regard to the roadway, and rather than excessive

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grading it may push it towards a private road determination as opposed to a public road.

MR. DONNELLY: Sooner rather than later you need to see the Town Board.

MR. MARTI: Those are the conversations that have to take place, yes.

CHAIRMAN EWASUTYN: At this time I'd like to turn it over to Ken Wersted, Traffic Consultant. Ken, you looked at the site.

MR. WERSTED: We recommend that the sight distances at the intersection of Leslie Road and the proposed site road be added to the plans for review.

Additionally, there appears to be a 32-acre parcel to the south of this project. We suggest that a cross easement to that parcel be provided between lots 14 and 15, that the proposed cul-de-sac is in close proximity to the adjacent parcel.

Additionally we recommend that the adjacent homes be shown. For example, behind lots 5 and 6 to the east there appears to be an existing home that's approximately 60 feet from the proposed property line. It doesn't show up

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on these plans.

MR. MARTI: It shows up on the aerial. That particular house is relatively close to the property line but it is in an area where it's basically protected by a vast area of steep slopes which remain undisturbed along that property line. I will show that. Actually with the updated survey we will show anything like wells and septic systems and the structures within 200 feet of the property line. So that would be added as a standard practice with regard to the preliminary plan development.

MR. WERSTED: I think that will help put the project in context with the neighborhood. That was all we had.

CHAIRMAN EWASUTYN: Karen Arent, do you have anything at this time?

MS. ARENT: I noted that the Town of Newburgh now has design guidelines, and the single-family residential design guideline, which this project might need refinement to obtain, would be the guideline that requires minimizing the grading to protect the existing characteristics of the site. The property is

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very steep, so attention has to be paid to how the project can fit nicely with the land forms and existing topography as much as possible.

MR. MARTI: Right.

MS. ARENT: Also to protect the natural features on the site, the vegetation, the outcrops. So you'll have to -- not inventory the vegetation but anything special or a rock outcrop that you can note on the plans, see if you can work around it. That would help bring this plan into conformance with the guidelines.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Besides the comments I addressed previously, we have nothing more at this time. Once these comments are addressed and all the easements and access issues are addressed by the applicant we can conduct a full subdivision review.

CHAIRMAN EWASUTYN: Okay. Pat Hines?

MR. HINES: I know the applicant's representative has my comments. I just think that we should have them go out and resolve those couple of issues, the Central Hudson issue and

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the access issues. We've taken this a couple of times along the way toward approval. I think we should look to them to bring those back so when we process this we can accomplish something. The rest of my comments I know Craig has.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: No additional.

MR. BROWNE: Following up on Pat's comments there, what would we be looking for for commitments or whatever to move forward on a conceptual as far as these kinds of agreements are concerned? I mean we have Central Hudson hanging out there, we have two property owners hanging things up.

MR. HINES: I'm looking for the applicant to come back with those issues resolved. At least an indication from the Town Board that they are going to entertain the roadway across someone else's property there. It's not the norm by any means that the Town would do that. And also the two other property owners adjoining. I can remember, you know, a couple engineers ago it was an issue and it

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hasn't been resolved.

MR. BROWNE: We would be looking for letters of commitment or just pure resolution period, done?

MR. MARTI: I would basically think as we're doing the initial -- the detailed soil investigation, the biggest hang up we have to overcome, the biggest potential obstacle to the development of the property is those access agreements. My intention would be to, as we come back with a preliminary subdivision design, part of that submittal will be draft agreements as far as the easements are concerned such that Mr. Donnelly can review those agreements in conjunction with legal counsel of the adjoining owners and those documents will be drafted and underway prior to the submittal of the preliminary plan stage. Likewise with the Central Hudson easement and the roadway. Until I know whether or not the road length and the design of the road is acceptable to the Town of Newburgh and complies with the Town's regulations -- I would want that waiver in hand if it's necessary prior to coming back to this

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Board again. So basically I would look to go to the Town Board for any road waivers as we design the road, and also go to the adjoining property owners that are involved in the access agreements such that those agreements can be reviewed along with the preliminary plans at the next submittal.

MR. BROWNE: What I'm seeing is that without those things in place the concept can't work. We can't do a concept approval, in my opinion, until you get that somehow formalized.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I agree with Cliff as far as it's premature for conceptual approval because of the easement and also because of the steep grades and how the roads would be handled.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I agree.

CHAIRMAN EWASUTYN: Okay.

MR. MARTI: I'll just make contact with the owners and the Town Board and we'll proceed. Thank you.

(Time noted: 8:22 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 10, 2008

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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)

Request For a 180-Day Extension
of Preliminary Approval

----- X

BOARD BUSINESS

Date: May 29, 2008
Time: 8:22 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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MS. HAINES: The first item of Board Business we have tonight is the lands of Zazon. We received a letter from John Petroccione dated May 13, 2008. He's requesting a 180-day extension. His current approval expires on June 20, 2008. With a 180-day extension the preliminary approval will be valid through December 17, 2008.

CHAIRMAN EWASUTYN: Okay. I'll move for that motion.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 8:23 p.m.)

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

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DATED: June 10, 2008

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

----- X

In the Matter of

FINAL RESOLUTION LETTER

----- X

BOARD BUSINESS

Date: May 29, 2008
Time: 8:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MS. HAINES: The next item we have today is -- it was a letter from Neil Wilson dated May 19, 2008 regarding the pharmacy and bank. What he did was he went through and listed all the conditions of his resolution for approval and then went on to explain how he has completed those. We thought that it was a very well constructed letter and want to use it as an example.

CHAIRMAN EWASUTYN: Because more often than not what we have happen is we grant final approval, Mike Donnelly mentions what the resolution is and what has to be done, and then everyone says yes, they walk out of here and then three months later they're looking to have their plans signed and no one has really taken the time to cross reference the resolution and to cover the fact that they are responsible for responsibilities.

MR. HINES: It sure makes our life easier, otherwise we have to chase -- each individual one of us has to chase through the resolutions to make sure that they met each of those conditions.

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CHAIRMAN EWASUTYN: I don't know how we can work with this as a tool to kind of blank out certain names but say to someone this is an example of what you have to do.

MR. DONNELLY: Maybe in that letter that you have been sending with the resolution we say that as part of your submission with the signed plans you should report on the status by number of each condition in the resolution --

MR. MENNERICH: That would work.

MR. DONNELLY: -- rather than give somebody else's letter.

Dina, maybe you and I could talk about adding a sentence. You're right, it's well done. They give you the date, what they did. Everything is taken care of.

MR. MENNERICH: It's really to the applicant's benefit to do this because they're going to be paying the consultants to go out and ask these questions and, you know --

MR. HINES: You wouldn't believe how many times we get stuff in and have to say that's not done.

MR. COCKS: I get phone calls from

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people who don't even have a landscape cost estimate yet and they're yelling at me saying they need their plans signed. It looks like they're not even looking at the resolution, they just automatically think that --

MR. DONNELLY: The letter you've been sending recently certainly tells them they need to demonstrate that they've satisfied the conditions. If you want it in this format it would be a good idea to tell them that specifically.

CHAIRMAN EWASUTYN: I'm somehow of the opinion, Pat, that the engineers don't factor in or are paid for this service.

MR. HINES: The follow up.

CHAIRMAN EWASUTYN: I assume they're paid to bring the plan to a certain point and that's the end of their responsibility and so --

MR. HINES: I got your approval, you're supposed to get your bonds.

CHAIRMAN EWASUTYN: Okay.

(Time noted: 8:26 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 10, 2008

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

----- X

In the Matter of

COMPARISON OF NEW APPLICATIONS
MAY 2007 and MAY 2008

----- X

BOARD BUSINESS

Date: May 29, 2008
Time: 8:26 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
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KAREN ARENT
GERALD CANFIELD
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MS. HAINES: The last thing is just a comparison of the new applications from May of `07 to May of `08. Last year we had six, this year we had zero.

MR. WERSTED: Just a follow up to Dina's report on the number of applications received. I'm not sure what's happening with the towns around here but I think we're seeing a similar theme in the Albany area where some of the towns up there are receiving less applications. In particular, the Town of Colonie I believe used to have a meeting every week. Sometimes they would cancel it because nothing was on the agenda. They cut back to I think two meetings a month. The Town of Wilton, which is just north of Saratoga, used to be meeting twice a month and they have now cut back to one meeting a month throughout for at least the remainder of the year, and if they see an increase in the number of applications or projects they would go back to meeting twice a month. It might be indicative of what's happening around here.

CHAIRMAN EWASUTYN: Dina might want to add, we decided to hold off with an asterisk in

BOARD BUSINESS

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reference to the data you have now and what occurred as of yesterday.

MS. HAINES: We got one new application in yesterday but it was after the Board Business was published. I was just going to make a note of it. It was a two-lot subdivision. It's brand new and it came in yesterday. That was really it. So we got one this month, but it was quite a bit less than last year which was at six.

(Time noted: 8:26 p.m.)

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DATED: June 10, 2008

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

----- X
In the Matter of

ANCHORAGE ON THE HUDSON
Request for Clearing and Grading

----- X

BOARD BUSINESS

Date: May 29, 2008
Time: 8:28 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
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ALSO PRESENT: DINA HAINES
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KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

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CHAIRMAN EWASUTYN: The only other point I'd like to raise, Pat Hines, we received a letter or a request for Anchorage on the Hudson for clearing and grading today. I'm asking Pat Hines to respond to that.

MR. HINES: There is some history behind this. On the Anchorage project there were specific notes required because of the existing topography and the need to cross grade across many of the lots to construct retaining walls, to construct the roads, to construct the driveways. Some of that grading would impact neighboring lots if it wasn't done correctly.

What's happened out there is several of the lots have had the grading modified. Some of the lots were transferred ownership from the original owner to other developers or single people that are constructing houses there. Some of the lots haven't followed that note. Specifically there's one lot, lot 6, that has completely modified the grading on the site, has done extensive filling, filled over the approved septic area, dug a detention pond to try to mitigate the damage that was caused to other

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lots. That has currently been issued a violation. That was before you recently. Dick Barger is working on plans. The name escapes me. It's C Spec or something like that. It was here.

I sent them a letter last May detailing what was needed to bring the site into compliance and suggested that the site had to come back to the Planning Board. The Town has -- the Codes Department has since issued them a notice of violation. Their first step was to show up before this Board. We gave them the information to address that.

Subsequent to that and while we were out with the other lots we noted some of the other lots had done some grading modification, filling, changing from the approved plans. What you have before you tonight is a request on Maser letterhead to -- they applied for a clearing and grading permit which was denied because they have to come back to the Board. I'm reading this as a request to not have to come back to the Board.

Looking to be consistent with lot 6, I think lots 16 and 17 also need to come back. They've modified their septic area, they've

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changed the grades. The Town is taking an enforcement action against one of the lots and sending them back to the Planning Board. I think to be consistent all of the lots that have been modified should come back to make sure they comply with the intent of the original note and they don't impact adjoining properties.

CHAIRMAN EWASUTYN: It's referred to as amended subdivision?

MR. HINES: I think it is because we had the note saying any changes to the grading must submit a revised plan. They went as far as -- typically any changes to the septic systems require re-approval by the Planning Board, changes in locations and modifications. They've actually gone back to the County, the County approved those subdivisions. They've taken these two back piecemeal. The County has granted them approval but I think they need re-approval. Quite frankly, the Building Department wouldn't have a set of plans for these without the Planning Board re-approving them because they would go to the approved subdivision plans and these septic systems aren't on there. I guess the

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animal would be an amended --

CHAIRMAN EWASUTYN: We need, between yourself and Mike Donnelly, to come up with a letter that we can respond to this giving -- addressing whether or not it's a clearing and grading permit or if it's an amended subdivision and what we need in the way of an application and maps associated with this.

MR. HINES: I see this, because of the impact of the sanitary sewer disposal system, as an amended subdivision. Specifically you don't move the wells and septic without approval.

MR. DONNELLY: I think it might be helpful for them to submit individual building plot plans as well that would go to the building department.

MR. HINES: Which they have done here. They tried to do it under clearing and grading. They met with the Building Department and Town Board regarding not only these two lots but other lots in the subdivision. I think to be consistent we need to bring them back.

CHAIRMAN EWASUTYN: I think -- Jerry, please.

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2 MR. CANFIELD: John, if I may. I think
3 there's a degree of circumvention intended here.
4 There is an enforcement action in place. This
5 particular letter I think inappropriately asks
6 this Board to lift our stop work order, which we
7 all know you can not do. I do know also that
8 Supervisor Booth and Jim Osborne have been
9 working with the original owner of the property
10 to get this sorted out, and Pat. Sorry about
11 that. Pat's input is detrimental to this. But I
12 think there's a process laid out here that
13 specifically needs to be followed, paramount the
14 enforcement action. Again like Pat said, this
15 has been going on for quite some time now,
16 probably three to four years. The individual
17 owner of this lot 6, which is probably the tip of
18 this whole iceberg or the issue that domino
19 affected this whole thing, is just not
20 cooperating with the Town.

21 So in any event, to make a long story
22 short, I don't think we -- it would be in the
23 best interest of any of us to do anything to
24 compromise our enforcing ability to get this lot
25 brought back to what it's supposed to be.

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I have forwarded a copy of this -- I don't know if you did, John. Dina e-mailed me it and gave me a hard copy. I forwarded a copy of this letter to Wayne and Jim as well. I will follow up because I think --

CHAIRMAN EWASUTYN: We did that also.

MS. HAINES: I gave them hard copies.

CHAIRMAN EWASUTYN: It's a standard process in the office, Jim Osborne, Mark Taylor, Wayne Booth are always copied. Go ahead.

MR. CANFIELD: I would like to follow up with them. I feel that the Town, whether it be from Mark or Jim, probably Mark Taylor, should respond to this and put things into perspective. Like I said, I get the feeling that there's a type of circumvention here.

MR. DONNELLY: Make sure they know it was the Board's conclusion that in addition to whatever else the Town is going to require for their stop work order for their violation proceeding, that amended subdivision approval is going to be required by this Board.

MR. CANFIELD: Right. The last paragraph of this letter eludes to if you could

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have the stop work order lifted.

MR. DONNELLY: Obviously we don't have that --

CHAIRMAN EWASUTYN: If someone would get back to us that you're in the process of working this through with the Town Attorney, we would appreciate it.

MR. HINES: Yup.

(Time noted: 8:35 p.m.)

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DATED: June 10, 2008

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

----- X

In the Matter of

THE MARKET PLACE AT NEWBURGH
(2007-35)

Variance for Signage

----- X

BOARD BUSINESS

Date: May 29, 2008
Time: 8:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
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CHAIRMAN EWASUTYN: The other thing, Frank Galli had mentioned when he came this evening, he talked about The Market Place receiving their signage approval and there was one amendment to that. Do you want to bring that up on the monument sign?

MR. GALLI: I didn't bring up the monument sign. They had the signage approved.

CHAIRMAN EWASUTYN: I thought you talked about the number of --

MR. GALLI: You did.

MR. COCKS: That was me. I brought that up.

CHAIRMAN EWASUTYN: Bring that up then.

MR. COCKS: The ZBA limited them to six different stores on the marquis type sign and also making it a little smaller at each entrance, and then also only five stores on each way finding sign inside of the site.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to close the Planning Board meeting of the 29th of May.

MR. GALLI: So moved.

MR. MENNERICH: Second.

THE MARKET PLACE AT NEWBURGH

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you all.

(Time noted: 8:40 p.m.)

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DATED: June 10, 2008

