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

----- X

In the Matter of

METRO PCS
(2010-08)

Meadow Hill Road Cell Tower
Section 60; Block 3; Lot 35.1
IB Zone

----- X

PUBLIC HEARING
SITE PLAN & SPECIAL USE PERMIT

Date: June 17, 2010
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN FURST

----- X

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

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MR. BROWNE: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of June 17, 2010.

At this time I'll call the meeting to order with a roll call vote starting with myself.

Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

MR. HINES: Pat Hines with McGoey,

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Hauser & Edsall, Consulting Engineers.

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

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

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

MR. MUSSO: Mike Musso, HDR, Wireless
Consultant.

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

MR. PROFACI: If you would please join
us for a salute to the flag.

(Pledge of Allegiance.)

MR. PROFACI: If you have any
electronic devices, would you please switch them
off or silence them. Thank you.

MR. BROWNE: The first couple of items
we have this evening are public hearings. I
would ask Mike Donnelly to review with us the
purpose and intent of the public hearing.

MR. DONNELLY: We have two public
hearings this evening, both of them are on site
plan applications. The Planning Board holds

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public hearings on site plan applications when it believes it is appropriate to ask the public to bring issues to the attention of the Planning Board that the Planning Board itself might not have thought of with their own knowledge of the area or with the assistance of their various consultants. The public hearing will begin in each case by the applicant giving a presentation of what is proposed. After that is completed the Chairman will ask any members of the public who wish to speak to identify themselves. After you have been selected to address the Board, we would ask you to tell us your name, spell it for our Stenographer so we get it down correctly, and step forward so we can all hear you. If you have comments, direct them please to the Board. If you have questions and it appears that an answer can be given readily, the Chairman will either ask the applicant's representative or one of the Town's consultants to answer the question. Thank you.

MR. BROWNE: Thank you. The first item of business is a public hearing. It's a site plan, a special use permit for the Metro PCS

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Meadow Hill Road cell tower. It's being represented by Daniel Laub.

MR. FURST: Actually Dan is not here. My name is John Furst, I'm an associate at Cuddy & Fedder. I work with Dan so I'll be pitch hitting for him tonight.

MR. BROWNE: I would ask Ken Mennerich to read the notice of hearing and then Joe Profaci to report on the mailings and legal notices.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185-57 Section K and Chapter 168-16 Section A, on the application of Metro PCS Meadow Hill Road for a site plan and special permit for the installation of cellular phone antennas at the existing Meadow Hill Road cell tower on premises Meadow Hill Road in the Town of Newburgh, designated on Town tax map as Section 60; Block 3; Lot 35.1, IB Zone. Said hearing will be held on the 17th day of June 2010

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at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated May 7, 2010."

MR. FOGARTY: Mr. Chairman, on June 2nd a first class certified return receipt mailing was sent out to the twelve property owners that are within 300 feet of the premises and nine return receipts were received.

CHAIRMAN EWASUTYN: Thank you, Tom.
Mr. Furst, if you would give your presentation, please.

MR. FURST: As mentioned, we're seeking a special use permit and a site plan approval to co-locate on an existing telecommunications facility. It's currently 145 feet tall. It's located on Meadow Hill Road just north of the Newburgh Mall but south of Meadow Hill Road.

The Board is probably aware but the public might not be aware, Metro PCS is a new entrant into the market. They're licensed by the

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FCC to provide next generation digital PCS services. So they're licensed just like AT&T, co-locate and all the other carriers that you're probably familiar with.

They're looking to provide service to the New York State Thruway, I-84, Route 300, Route 52 and Meadow Hill Road. The property is about 1.5 acres. It's located within the Town's interchange business zone. The wireless facility is currently the only improvement on this property. Again, it's a 145 foot tower. It's currently used by Sprint, Omnipoint, Verizon and AT&T. They're all within an existing compound around the base of the monopole.

Metro plans to mount six panel antennas at a height of approximately 108 feet above ground level. So they'll be the lowest of all the carriers on there. And they're not looking to increase the height of the tower. So the height is going to stay the same and it will be the lowest of all the existing carriers on there.

At the base of the monopole they're going to be putting in their equipment within the existing fenced-in compound. So there's no

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expansion of the compound.

When we were here the other month there was a slight change in the equipment layout. We had an L-shaped configuration proposed when we appeared back in May. We had to slightly change that because it just wasn't going to work. It's a tight squeeze. We're really trying to avoid expanding the compound. We ended up moving one of the back-up battery cabinets to a small open section, actually right by the base of the monopole. It's stuck in the middle there. Again, we're not expanding that compound. We're co-locating on an existing facility. That's the preference under the Town's wireless ordinance. Again, we're not expanding the compound, we're not expanding the height of the tower. It's consistent with the current facilities at this site. There's minimal impact, if any, on the surrounding neighborhood, which is mostly commercial.

We have the architect engineer as well as a radiofrequency engineer here if the Board or the public has any questions.

CHAIRMAN EWASUTYN: Thank you.

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At this point we'll turn the meeting over to the public for their comments. As Mike Donnelly had said earlier, if you would raise your hand and give your name and your address.

(No response.)

CHAIRMAN EWASUTYN: Okay. At this point let the record show that there's no one here for the public hearing on the Metro application.

At this point the Planning Board will turn to their consultant, Mike Musso from HDR, who will give us his recommendation. Mike.

MR. MUSSO: Mr. Chairman, Members of the Board and Members of the Public, thanks for having me here tonight. Mike Musso for HDR working on behalf of the Town of Newburgh.

I would like to just confirm some of the narrative you just heard from the applicant representative tonight.

The proposal is for a new wireless facility, not a new tower. This is use of an existing infrastructure, the 145 foot light blue monopole located behind the Newburgh Mall. As you can see, or perhaps not see on the cross

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section here, Sprint, T-Mobile, AT&T and co-locate currently exist on the monopole. Metro PCS is looking to co-locate in a similar fashion below those four providers that I just mentioned at a height of 108 feet.

As part of our review HDR reviewed the application for comprehensiveness in terms of the Town's wireless code. We looked at the justification and the need for this site. Indeed existing Metro PCS sites are currently approved further north on the Thruway and also at points south. This particular facility would interact with sites further north located along Valley View Drive and also further north off of Quaker Street, the monopole off of Quaker Street.

As noted, we agree with the applicant in that this facility would provide needed and excellent coverage to Route 87, Route 84, especially that busy interchange there, but also to other areas of the Town of Newburgh including commercial areas on and off Route 300 and some other points a little bit further north.

As part of our review we looked at radiofrequency emissions. We did confirm that

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the applicant provided a conservative and cumulative analysis, meaning not only looking at the proposed six Metro PCS antennas but also including in their calculations the power and frequencies of the existing providers.

As expected, all general public areas around the pole will be significantly below what's known as the maximum permissible exposure level. In fact, they're a little over one percent of what would be allowed using what we feel is some conservative modeling.

We also looked at the structural integrity on the monopole. We've asked the applicant representative to provide a structural and foundational analysis of the pole accounting for, again, not only the four antenna sets that are there but also the load that would be imparted by the Metro PCS antennas. We confirmed that the design criteria that's most current was incorporated, meaning wind loads and ice conditions. Any ice that may accumulate on the pole or on the tower were accounted for. As we confirmed, the pole would have adequate structural capacity to also accommodate Metro as

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a provider here.

In review of the ordinance, clearly the preference for the Town is to use existing infrastructure where possible, water tanks or rooftops or existing monopoles and towers that might exist around Town. It would alleviate the need of potentially building a new monopole or tower somewhere else.

So we feel that this application is reasonable and appropriate. We also feel what's being proposed here makes sense in that there's no other ground area impacts. The overall footprint of that fenced area will not change at all. Indeed Metro's proposed equipment actually is a little bit smaller than some of the other equipment that's there currently. We're looking at a total of four equipment cabinets. Some of the other providers have actually larger shelters or mini-buildings. Their equipment will be out in the open on a concrete pad. So again, I think there's been good due diligence. Our questions were responded to by the applicant to our satisfaction and everything is summarized in a report of June 3rd.

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The last thing I'd just like to run through very quickly, on the last page of our report we do often -- we do offer a set of recommendations which are fairly standard. I know that this Board is familiar with those for this type of application.

We note that the existing security fencing around the base of the equipment area at the base of the monopole be maintained and routinely inspected. I want to make sure that the gates are intact and there's appropriate signage, FCC signage as should be installed.

Also color matching. The pole actually works very well as far as screening on some days when it's a white or bluish sky. A day like today actually I think works pretty well. As with the previous antennas that were approved, we want Metro PCS's equipment, if they are approved to co-locate here, color matched in the same fashion. We want conformity with the background pole and the other antenna arrays. That should not be any issue for them to do that.

We also note that any operation, if they're approved, is in accordance with the

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Town's ordinance. So if there are modifications that are suggested, for example if one day Metro wants to add more antennas or antennas of different sizes, they'll have to go through the right process here, whether it's going to the Planning Board or building department.

We also suggest because of the co-location nature of the site, that one round of field readings be incorporated and reported to the building inspector. I noted earlier that the calculations put them around one or two percent of the allowable exposure limit, but as a practice we like to suggest that the Town has some realtime readings. So if they are approved, once the antennas are built and on air, we do recommend that they conduct some field testing in the area just to confirm those numbers.

Really that's all the comments we have on this.

CHAIRMAN EWASUTYN: Any comments from the public at this point before we turn over to the Planning Board Members?

(No response.)

CHAIRMAN EWASUTYN: Okay. Cliff

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Browne?

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing further.

MR. FOGARTY: I have no questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No questions.

CHAIRMAN EWASUTYN: At this point I'll turn to Jerry Canfield who represents the Town, Code Compliance. Jerry, do you have anything to add to this?

MR. CANFIELD: We have no outstanding issues.

CHAIRMAN EWASUTYN: Bryant Cocks, our Planning Consultant. Bryant, do you have any comments?

MR. COCKS: I'll just note this was sent to the Orange County Planning Department and they didn't have any comments.

CHAIRMAN EWASUTYN: There being no interest from the public to speak at this time, I'll move for a motion to close the public

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hearing on the application before us.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Joe Profaci. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

I'll turn to our Planning Board Attorney, Mike Donnelly, to give us conditions of approval for a site plan and special use permit for Metro PCS located on Meadow Hill Road.

MR. DONNELLY: I've incorporated the conditions that Mike Musso mentioned earlier as our standard ones, particularly the color matching of the antenna structure and coax cables. I've also included a condition that requires posting, if required, of any unpaid

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portion of the \$75,000 removal bond. Given that this is the fifth carrier on the tower, I can't imagine that we don't already have that in place. If there's any shortfall, it needs to be brought up to snuff. A requirement that the security fencing and equipment be routinely inspected and that FCC warning signs remain in place. The requirement of the code that there be an annual NIER level certification filed. A condition requiring that any change in the antenna size or the number and sizes of ground-based equipment by the applicant shall require amended approval. The one-time field measurements in the field after the tower is operational as mentioned by Mr. Musso earlier. And finally, a condition that states in essence that no equipment not shown on the site plan can be installed anywhere on the site without amended approval from the Planning Board.

CHAIRMAN EWASUTYN: Any comments from Board Members in reference to the conditions for approval?

MR. BROWNE: No comment.

MR. MENNERICH: No comment.

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MR. PROFACI: No comment.

MR. FOGARTY: No comment.

MR. WARD: Nothing.

CHAIRMAN EWASUTYN: Having heard the conditions for the site plan and special use permit presented by our Attorney, Mike Donnelly, I'll move for a motion to grant a final site plan approval for both.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

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Thank you.

MR. FURST: Was that for the site plan
and special use?

CHAIRMAN EWASUTYN: Yes.

MR. FURST: Thank you.

(Time noted: 7:16 p.m.)

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

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

DATED: July 12, 2010

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

----- X
In the Matter of

KRISTOPHER J. NOTO
(2007-28)

Route 52 & Old South Plank Road
Section 64; Block 2; Lot 8.2
B Zone

----- X

PUBLIC HEARING
SITE PLAN

Date: June 17, 2010
Time: 7:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

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

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MR. BROWNE: We have another public hearing for a site plan for the project known as Christopher J. Noto. It's being represented by Maser Consulting, Justin Dates.

CHAIRMAN EWASUTYN: Ken, do you want to read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185-57 Section K, on the application of Christopher J. Noto, site plan. The project site is located on New York State Route 52 and Old South Plank Road in the Town of Newburgh, designated on Town tax map as Section 64; Block 2; Lot 8.2. The public hearing will be held on the 17th day of June 2010 at the Town of Newburgh Town Hall, 1496 New York State Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard regarding the site plan. By order of the Planning Board of the Town of Newburgh. John P. Ewasutyn, Chairman, Planning

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KRISTOPHER J. NOTO

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Board Town of Newburgh. Dated May 7, 2010."

CHAIRMAN EWASUTYN: Joe.

MR. PROFACI: Mr. Chairman, thirty-four property owners within 300 feet were notified by certified mail, return receipt requested. Twenty-eight return receipts were received returned. The mailings are in order.

CHAIRMAN EWASUTYN: Thank you.

Justin, if you would give your presentation, please.

MR. DATES: We did receive one more today.

CHAIRMAN EWASUTYN: Okay.

MR. DATES: My name is Justin Dates with Maser Consulting, we're the consulting engineer for the project. Also with me tonight is the project architect, Linda Zwart. And the applicant, the Notos, are also here as well.

The project is located on Route 52 and Old South Plank Road. I'm going to orient everyone to the plan. On the bottom of the page here is Route 52. On the top is Old South Plank Road. Now the entire parcel is about 1.4 acres in size and it's naturally subdivided by the

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right-of-way Old South Plank Road. The proposed project is located on .6 acres of the entire site.

The parcel is located within the Town's water and sewer district, so we would be connecting into municipal water and sewer. It's located in the B Zoning District. We do meet all the bulk requirements.

We did have to apply to the Zoning Board of Appeals for three area variances. Due to the nature of the lot and its dual frontage, we need to apply for a reduction in the front yard setback off of Route 52, a reduction of the front yard setback off of Old South Plank Road, and also lot depth. We got the approval of the ZBA for those variances.

The applicant is proposing a one-story, 3,000 square foot eating and drinking establishment. The shaded area here is the building itself.

We've proposed a twenty-space parking lot that is within the zoning regulations for that type of use.

Now, the access for the patron or

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customer parking lot here is off of Route 52. That's this entrance here directly across from the South Plank Plaza site entrance. We also have an entrance or access point proposed off of Old South Plank Road. That's more of a service access. With the previous application there was a multi-story building, a through connection. That has come to fruition and we've proposed this plan now. We don't have a connection. It's a single-story building, single use. So the project has come along throughout time here.

We've developed a full lighting and landscaping plan for the project. The lighting is a cut-off style fixture. The bulb itself is recessed into the fixture and it directs light down, not out into the night sky.

We've proposed landscaping. There's a decent, about twenty-foot strip here between our property line and Old South Plank Road. We'll be looking to maintain, to the greatest extent possible, the existing vegetation there, and also supplementing with lower shrub plantings for headlights of cars and what not so they're not directed out of the site.

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KRISTOPHER J. NOTO

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I think that sums up the site. Would you like Linda to present the architecture?

CHAIRMAN EWASUTYN: Please. Thank you.

For the record would you give your name?

MS. ZWART: I'm sorry. It's Linda Zwart, I'm the architect of record.

As Chris stated -- as Justin stated, this is a one-story building. We have planned it to be very appealing to the area and having earth tones throughout. The lower portion of the building would be covered with this type of cultured stone that has a little bit of a rustic feel to it. The upper part of the building would have a stucco type appearance to it with neutrals throughout. There would be a front canopy to the building with a little shot of color in it for interest and some large windows. This side would face Route 52, so it would have the aesthetic appearance to it. So it would be hopefully very -- it would fit into some of the other new buildings that have been built along 52 right in that area, BNC Carpet and some of the other buildings.

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CHAIRMAN EWASUTYN: And the entry for the public to the building itself?

MS. ZWART: The entrance to the building would be on this end and it would be directly off of the parking area here. So that facade would correlate to the facade with the larger canopy.

CHAIRMAN EWASUTYN: Okay. At this point we'll turn the meeting over to the public for their comments. As said earlier, please raise your hand and give your name and address. How the public hearings are formally held, we allow everyone an opportunity to speak, and when we finish with that, if there's others who have spoken and would like to speak again, then it will be their turn after we acknowledge everyone in the audience.

So please raise your hand if you have any questions or comments. The gentleman there.

MR. GAYDOS: My name is Gary Gaydos, 116 Old South Plank Road. At a prior meeting concerning this building, if my memory serves me correct, it was strongly recommended that there be no entrance or egress off of Old South Plank

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Road. I notice here that there is now.

As the Board Members know, at the present time the bridge is out on Old South Plank. For traffic in there it's very narrow. People are cutting through the existing parking lot for the Algonquin Plaza. I really don't believe that that rear exit and entrance is conducive to that area. It's a narrow road. When the bridge is open it's a shortcut, it's a speedway. Fortunately the bridge is out at the present time. It may be out for awhile. There is a barricade there. When we have deliveries -- is that what the intent is, deliveries in the back entrance?

MR. DATES: Yes. That's the service entrance.

MR. GAYDOS: I really don't believe that's conducive to that area. There's a home directly in back of that owned by the Distiglios. It's not going to be very nice. If you have a truck coming in or coming out of there, the existing traffic that uses that street right now, it's going to cause a problem. I guarantee there's going to be an accident.

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CHAIRMAN EWASUTYN: Thank you.

MR. GAYDOS: Also, it indicates in the front of the building, it appears as though I want to say it's an entrance way.

MR. DATES: Right here?

MR. GAYDOS: Yes.

MS. ZWART: No. It's windows.

MR. GAYDOS: It's just windows?

MR. DATES: Just windows.

MR. GAYDOS: No entrance whatsoever?

MR. DATES: No.

MS. ZWART: No.

MR. GAYDOS: I am very concerned about the egress and entrance off of Old South Plank. Like I said, at the previous meeting it was highly recommended there be no entrance or egress off of Old South Plank.

CHAIRMAN EWASUTYN: Thank you.

Comments, additional comments from the public?

MR. KUPRYCH: Gary Kuprych, 174 South Plank Road. The building to the east of this proposed building, can I see the -- that's it. I'm a little confused because this map is opposite the way you look at things. Could you

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turn that map upside down?

MR. DATES: The site plan?

MR. KUPRYCH: Yes. I get the perspective better that way.

MR. DATES: Upside down as in --

MR. KUPRYCH: All the way around. 180. So basically the building is on the west side of the property?

MR. DATES: Correct.

MR. KUPRYCH: And the parking lot obviously is on the east?

MR. DATES: Yup.

MR. KUPRYCH: So how many feet separate his property line to where my building is right next to it?

MR. DATES: Where is your building, sir?

MR. KUPRYCH: It's the adjacent piece of property. It goes down to the point.

MR. DATES: The property line is probably, it looks like five feet off of there.

MR. KUPRYCH: What goes on with that -- what are you going to do with that? How is that going to be fixed up there?

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MR. DATES: Right now there is an existing storm drainage pipe that runs through there. We are proposing to connect that. Whatever existing vegetation we can maintain. As I stated, we will be keeping and are doing some screen planting in the corner of the parking area.

MR. KUPRYCH: So you're going to manage that whole area in a sense?

MR. DATES: Yeah. This corner is the landscaping.

MR. KUPRYCH: Who owns that, the property where that water pipe goes underneath the road?

MR. DATES: Over here?

MR. KUPRYCH: Yes.

MR. DATES: There's an easement.

MR. KUPRYCH: Is that Town property?

MR. DATES: This right here?

MR. KUPRYCH: Yes.

MR. DATES: That is part of his lot. Yeah, it is.

MR. KUPRYCH: Does he still own that or did he sell that?

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MR. DATES: No, no. That's his lot.

The orange outline here is --

MR. KUPRYCH: The property. Okay.

Either way because -- the other thing is too, any fencing that separates my building to this building?

MR. DATES: No. We're not proposing any.

MR. KUPRYCH: Because, you know, in retail these days everybody is having a hard time. The more visibility you have the better. Fences, that's, you know -- and, you know, I visit Cornwall quite a bit and there is a wall in upper Cornwall and they have the shrubbery so close to the road that the car has to pull way out into the highway to go right there. So this shrubbery, how close is that to the road?

MR. DATES: We have these decorative stonewalls here. We have low-lying shrubs and perennials right in front as accents. So it is pulled back from the edge of the pavement twenty feet. When you're out here it doesn't affect your --

MR. KUPRYCH: Because right at that

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point is where the miles-per-hour changes. It goes from 30 to 40 and they start to accelerate right there. As people pull out there might be a danger depending on how close you have this vegetation to where you enter and exit this area.

What is that, thirty foot, that entrance on 52?

MR. DATES: The width of it?

MR. KUPRYCH: Yes.

MR. DATES: It's twenty-four feet at this access into the site and then it opens up for DOT requirements on 52.

MR. KUPRYCH: What about if there's a fire, what do you do? You have more or less access because --

MR. DATES: The building itself is going to be sprinklered. That's taken care of. And then access to the site, you're only roughly probably forty to fifty feet off the edge of pavement. So you wouldn't want to get any closer to the building in case of a fire.

MR. KUPRYCH: So getting back to the east side of the property, that's going to be more or less -- it looks almost contiguous with

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our property. It almost would look like it's the same property in a sense.

MR. DATES: Along this frontage here?

MR. KUPRYCH: No. Just that square where the end of the parking lot line is to the end of the property line, in that area.

MR. DATES: There's an open grass area here. Whatever existing vegetation we're looking to maintain, and we do have some screen plantings right off the corner of the parking lot there.

MR. KUPRYCH: To look at this building you would think that that would be the entrance right there. You know, the entrance because it's narrow you have the entrance on this side.

MR. DATES: Because of the way the shape of the lot is, it didn't lend itself to that.

MR. KUPRYCH: Then you have the entrance and the exit. It's just right to the right of this entrance?

MR. DATES: Just here. This is the post office right here. So that's here and then the back entrance is --

MR. KUPRYCH: So the back entrance is

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right there. So you've got two entrances that are relatively close?

MR. DATES: Yes, but this is simply the service access. Probably once a week the garbage truck would come, the dumpster, and they'll get one delivery a day.

MR. KUPRYCH: What happens along this property line we're looking at so the people who live in the houses look at this building, is that -- you know, they would like to have the nice aesthetics. What does that look like?

MR. DATES: Like I mentioned, there's a twenty-foot buffer between the edge of pavement and buffer. It will be green and --

MR. KUPRYCH: There's trees there?

MR. DATES: Yes. The grading for our site has to stay on our site. We haven't gone over the property lines. We're also introducing some shrub plantings, evergreen and deciduous, like I said, for blocking headlights and just to screen the cars there.

MR. KUPRYCH: So there's going to be no railing that the State is going to put or anything like that. Are you going to just

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manicure it down?

MR. DATES: Yeah. There's lawn area here and then plantings.

MR. KUPRYCH: How many square is that?

MR. DATES: The building?

MR. KUPRYCH: Yes.

MR. DATES: 3,000.

MR. KUPRYCH: Thank you. That's all the questions I have.

CHAIRMAN EWASUTYN: Is there anyone here this evening who hasn't had an opportunity to speak?

(No response.)

CHAIRMAN EWASUTYN: Okay, Mr. Gaydos.

MR. GAYDOS: I have one more question, sir, pertaining to the rear of the property. You had said that you were going to use the existing trees as a buffer type thing.

MR. DATES: Yeah. From our property line to the edge of pavement is roughly twenty feet. There is substantial existing vegetation there that we can't touch. It's off our property anyway. That will be maintained.

MR. GAYDOS: Because at the present

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time the trees are there now. There's an awful lot of them laying right into South Plank now. Cars are going to sometimes get hit by the branches because it's such a narrow street and the branches are hanging into the street and the trees are there. It's really not an aesthetic type tree for a buffer. I was wondering if there was going to be something else other than that? You had mentioned shrubbery. Would that be along there also?

MR. DATES: That's along -- just off the property line onto our site right here, there's a stretch of Junipers and Forsythia as a buffer.

CHAIRMAN EWASUTYN: Can we now turn to the site plan?

MR. DATES: Yes.

CHAIRMAN EWASUTYN: Any additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Okay. We'll start with Jerry Canfield, Code Compliance. Jerry, fire.

MR. CANFIELD: The project meets or

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exceeds the fire code accessibility requirements. The project's representatives have acknowledged the sprinkler requirement, which the building will be sprinklered.

We have no other outstanding comments.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We've reviewed the proposed utility connections. The applicant has one outstanding comment, to modify the sprinkler and potable water connection, which we provided them with, which they can do.

The stormwater management on the site is going to be to the east end of the site I want to say.

MR. DATES: Yes. Subsurface.

MR. HINES: There's a proprietary product in order to control sediment, and then there's an under parking lot storage system proposed with connection to the existing stormwater system which was discussed during the public hearing portion.

We have some minor technical comments on the stormwater system which the applicants

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have and I'm sure they can address.

Other than that, they've addressed our previous comments with those two clean-up items outstanding.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I just had a couple others. One was just coordinating whether it's going to be a six-foot sidewalk or five-foot sidewalk. It's just one was different on the plan against the narrative.

The second is just the garbage enclosure details. It has to list what color the vinyl slats will be.

We're going to need approval from the Town of Newburgh Highway Department and New York State Department of Transportation.

Also, if you choose to defer the landscape bond, there's that note you have to put on the plan and certificate you have to send to Mike Donnelly.

MR. DATES: You can e-mail that?

MR. COCKS: Yes. That's all.

CHAIRMAN EWASUTYN: Karen, the choice

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of plant material for the entry, is that of a species of plants that would grow high and restrict sight distance and visibility?

MS. ARENT: It grows fairly high. It's twenty feet back and it's not an issue.

The only other comment that -- I have two comments about the HVAC. We're going to show it screened. If it's going in the back you don't need to screen it.

MR. DATES: It will be on the back side of the building in between that connector sidewalk and the building. That's where --

MS. ARENT: Okay. And the free-standing sign, did you give more thought to that?

MR. DATES: Yes. Linda has that.

MS. ZWART: Do you just need a copy?

CHAIRMAN EWASUTYN: If you have something to put up on the board, we can all review it at the same time.

MS. ZWART: Okay. We were proposing a monument style sign which would be located, you know, by the entrance here and connecting to the free-standing walls that are already there, possibly at an angle something -- obviously we

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don't know a name yet. We're thinking of a name. Something that would emulate the appearance that we have at the end of the stonewalls that are proposed. A monument style sign. The way it's shown here is eight foot by six foot, and the six foot is to the highest point.

MS. ARENT: Just be aware it has to be ten feet from the property line.

MS. ZWART: Okay.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: We looked at the project. The sight distance is obviously a concern coming out onto Route 52. Right now there's a lot of vegetation. This site is wooded. The proposed plan is going to clear up a lot of that, obviously with the site development. The proposed plantings, as Justine mentioned, they're about twenty feet back from the edge of the travel lane on Route 52. There will be plenty of room for a vehicle to stop before they enter Route 52 and be able to look in each direction along 52 before pulling out into the road.

The customer traffic is concentrated on

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Route 52. The driveway is lined up opposite the South Plank Plaza, the site driveway, so turns will occur opposite each other, which is an ideal situation.

The entrance for the rear of the property is basically going to be limited in use to deliveries. As was mentioned, it's not going to be used as a customer entrance so it won't be very frequent. The traffic on Old South Plank Road is limited now because the bridge is out, so there isn't a lot of traffic that frequents that area. If it were open, which we would assume it is used to cut between 52 up to 300, but the level of traffic coming in and out using the rear of the site isn't going to add any delay to any of the residents along that section of road. The amount of traffic is so minimal that it's not going to be like a large mall or something that is going to affect that.

The concern that we had was the access getting into the dumpster area for a garbage truck, if they're able to square up the front of the dumpster to do their operation. And then also when a delivery comes in, it being able to turn

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around within the rear of the property and exit out in a forward motion rather than turning back out. So if that can be accommodated, you know, that would be acceptable.

That was pretty much the limit of our comments.

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

MR. BROWNE: I don't have anything more on it. Just to make a statement that we have looked at the traffic pretty heavily, pretty strongly, and the whole plan, and from our part of the process it's looking pretty good.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The question was raised about the color of the slats for the dumpster enclosure. I thought that was decided the last time.

MR. DATES: The slats for the enclosure will match the building facade. It's an efface. The same color, this beige. That will be for the gate and the entire enclosure.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have no questions,

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John.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I have a concern -- not a concern. I was interested in the sign. We had talked about the sign during the work session. I'm glad to see the first part.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'd like to see you work with our landscape consultant to check out the east side where they were saying with the property owner and make sure it's right, appropriate, and South Plank Road in the back. Thank you.

CHAIRMAN EWASUTYN: If you can find a reasonable approach to working with Justin as far as the rear, what may be addressed.

MS. ARENT: Sure.

CHAIRMAN EWASUTYN: Any additional comments from the public?

MR. KUPRYCH: Just a suggestion to look at this plan. When you have a retail business you need windows. When you look at this building, you first look at it, it looks like an entrance. It looks confusing. The thing is if

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you put windows, then you know it's a business. It looks more like a warehouse but it's nicely done. I don't get the impression that's a retail place.

CHAIRMAN EWASUTYN: What happens architecturally is people have a preference as to how they want to design their building, how they want to operate their business.

MR. KUPRYCH: Right.

CHAIRMAN EWASUTYN: For us to suggest to them that they do something we think is right, then we own it.

MR. KUPRYCH: Right.

CHAIRMAN EWASUTYN: I don't think we're in a position to own or design what may not be functional for them. Overall looking at the colors, looking at the roof, it's harmonious with everything, in scale with everything in the neighborhood and it's acceptable.

They also described how the interior layout of their business really doesn't accommodate for having windows. There's interior units that will be against those walls where you might envision to have windows but yet it doesn't

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function for the operation of their business.

MR. KUPRYCH: It was just a suggestion.

CHAIRMAN EWASUTYN: Thank you. Sir.

MR. GAYDOS: Am I correct in understanding that the Board has no objections whatsoever to the entrance and egress off the rear of the building?

CHAIRMAN EWASUTYN: Correct. It will be used for service as was described.

MR. GAYDOS: So the present Board is saying the opposite of what the prior recommendations were, that there be no entrance or egress from the rear. Is that correct?

CHAIRMAN EWASUTYN: Not knowing what the prior Board had said --

MR. GAYDOS: I'm sorry. That was at the ZBA Board.

CHAIRMAN EWASUTYN: Yeah. That was a recommendation that the Zoning Board had made. It doesn't apply to the Planning Board.

MR. DATES: Mr. Chairman, furthermore on that. The plan that was presented to the ZBA did have some employee parking on this side which we did shift to have access into the customer

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parking. So we did reduce the amount of traffic going there.

MR. GAYDOS: The employee parking will be where?

MR. DATES: We had a couple spaces shown coming off of Old South but the total parking has been accounted for in the lot off of 52.

MR. GAYDOS: The employee parking now is going to be sadly on the opposite side of Old South Plank Road where Chris owns a house that was recently destroyed -- not destroyed but was on fire, quite a lot of damage. He opted to take the lawn out and make a parking lot out of that lawn. Have the Town Board Members seen this area?

CHAIRMAN EWASUTYN: I've been out to the site, but go ahead.

MR. GAYDOS: Have you seen the parking lot that was formally a residential area into a parking lot? Have you noticed that?

CHAIRMAN EWASUTYN: I have. Go ahead.

MR. GAYDOS: So that's where the employee parking is going to be obviously. I

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don't really think that this is -- I've got no problem -- I don't even know Chris, all right. He's probably a nice gentleman. I really think we're really stretching what that area is into something that's not very conducive to our area. Like I said, I'm not against Mr. Noto. I don't really even know him. To let him make a parking lot where it was all lawn at one time and now we're going to use that for employee parking because he doesn't have enough parking where he is to do what he wants, I think the Board is very remiss at what they're doing here. I think there ought to be some type of restrictions and something done about that. I don't think it's right. That street is a residential street. Now you're making a commercial street with a parking lot.

CHAIRMAN EWASUTYN: Are you -- I don't know if he's saying --

MR. GAYDOS: Once he has that approval he's going to park where he wants. We all know that. It's not a secret because it happens all over the Town. It's almost something you can't control because nobody really polices that type

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of action. It's so obvious what's happening here and I can't believe the Board is just giving it a blanket okay without making some type of conditions that you just don't do this in a residential area.

CHAIRMAN EWASUTYN: Cliff.

MR. BROWNE: To make a point, when the gentleman -- when they come before us with a plan there's a certain code that tells us what's required for the parking spaces given the square footage and the type of business. This plan meets those requirements. That's all we can do, enforce the requirements that are in the code. So the plan shows what the code requires, and it's on the plan. That's what he's presented, that's what we're looking at. We can not, we can not do anything about what's going on across the street by anybody else. That's not part of this plan, it's not part of the application. We can not address it.

MR. DATES: There's no parking across the street at this house.

MR. GAYDOS: You're not going to propose it. Come on, son. We're not dummies. I

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just think there's something remiss in that. I just don't -- you're taking a residential area and making it a commercial area which is really wrong. The people on that street have been there for many, many years and it's been a nice street. It's been a cut off. Now the bridge is out it's a lot nicer because we don't have the hot rodders. I think you're wrong.

MR. DATES: The parcel is in a commercial zone and we are permitted commercial use for the parcel. We're within the bulk requirements.

MR. GAYDOS: I don't have a problem with that. That's not what I'm saying. The whole concept is missing something.

CHAIRMAN EWASUTYN: The lady in the back.

MS. GAYDOS: Ann Gaydos --

CHAIRMAN EWASUTYN: Can you speak louder, please.

MS. GAYDOS: Ann Gaydos, 116 Old South Plank Road. Just like my husband said, I'm very concerned with the deliveries in the back. If you've got a soda truck, a Pepsi truck delivering

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soda and then you have the school bus coming down, they can't be both on that same road. That is too narrow. When the school bus goes down, it takes up the road. Now there's going to be a soda truck, there's going to be a bread man, there's going to be a beer man, there's going to be a meat guy because he's a deli. You're going to have a lot of deliveries there. Plus you have school bus drivers coming down with kids. Now how are they supposed to get by him when he's got these big delivery trucks back there? If there's a fire and there's one of those big trucks, we're in big trouble because a fire truck would never get up that road. That's our main concern.

I mean I've been into his deli. He sells great stuff. I'm not against him opening a deli there. The problem is we have a very narrow road and all of a sudden now -- like I said, at the last meeting they did strongly advise that he would not be able to have the deliveries on Old South Plank Road. Now you're saying he can. I'm worried about, like I said, there's going to be a lot of trucks, a lot of delivery trucks. Now you have school buses going down. They're going to

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go try to move over. They're going to go into somebody's yard. They're going to go into a ditch with kids on the bus. And a fire. Fire truck would not be able to get through. A big fire truck is not going to be able to get through there. God forbid if it's my house that's on fire and one of the delivery trucks are there and they can't get up the road. That's the biggest problem that any of us have on that street. We've been living there forty-six years and -- I don't know. I don't know what's happening to our nice town. It's like I don't know what's going on. You've got people wanting to move out. You don't have people wanting to move in. That's a shame because I love our town and I hate to see what's going on.

We're contending with that big building up the corner. It's huge, that big building up the street from us. I don't know what's going to happen when that, if it ever does get rented. Right now kids are hanging out in there breaking windows and everything else. Just what we need.

We're going to have so much traffic on that road. I've got six grandchildren that I

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KRISTOPHER J. NOTO

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have to worry about. If my daughter comes, worrying about her backing out of my driveway. Now I've got to worry about big tractor trailer trucks, soda trucks, bread trucks and everything else. I don't know. It's just -- I don't know. It just really upsets me to no end. I just had to get up and say my peace.

CHAIRMAN EWASUTYN: Can you look at the standard road width?

MR. WERSTED: The items that you bring up are something that's within the scope of what we look at. Certainly the delivery trucks, the size of them, the frequency, those are all important considerations.

I guess the difference here is the size of this facility and the scope relative to the number of deliveries. When you mentioned that there could be a soda truck, a school bus and, you know, a bread truck, a meat delivery truck, part of that, you know, is a schedule of how they're delivered. Are they all going to be delivered right at 3 o'clock when the bus is coming through there? Probably not. They're going to be spread out, one on a Tuesday, another

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on a Wednesday, the meat truck might come again on Friday. So with the truck coming in and out, if it's only occurring once a day, you know, once every couple of days, that frequency of all three of the trucks being there and a school bus and a fire, it becomes -- it starts to become the ultimate worst case scenario if you will. With the size of the property and the project, we're not anticipating that to happen. If we had a -- I'm going to go to the extreme here of 100,000 foot distribution center. Clearly there's no room for that. Clearly Old South Plank Road can't handle that type of use. The setting just isn't conducive for that. So there are different areas of the Town for that type of zoning and everything else.

MS. GAYDOS: I just have to correct you on the buses. The buses don't come just at 3 o'clock. My grandson gets on the bus at quarter to 7, there's another bus that comes about 8:30, there's another one that comes 12 o'clock for the afternoon kindergarten. There's buses. 2 o'clock the high school gets out, 3 o'clock the other school gets out. There's a lot of traffic.

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MR. WERSTED: Yes. You've got your elementary school, your junior high, your high school, you've got your morning pick ups and then your afternoon pick ups.

MS. GAYDOS: So you're saying that road is wide enough to handle a big soda truck plus a school bus with no problem?

MR. WERSTED: I can't say that there isn't going to be a problem. One of them is going to pull over, move to the side. They're both not going to try and play chicken with each other if you will.

MS. GAYDOS: But on a snowy morning the school bus driver has to get over here and maybe jeopardize fifty kids on that bus.

UNIDENTIFIED SPEAKER: Or an ambulance has to go through. He can't get through and has to go. By the time he gets around, someone is having a heart attack and they're dead because the road is blocked.

CHAIRMAN EWASUTYN: Excuse me. I think what Ken said earlier is the worst case scenario is always the worst case scenario, but he's looking at it from a practical standpoint as a

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traffic consultant and saying it can work.

MS. GAYDOS: He did not give me a clear answer saying -- when I said the bus and the big soda truck, one of them -- you said they're not going to play chicken, one of them are going to have to move. You've got school bus driver that, okay, they're on a schedule so they're going to try to slide over. What if that bus tips? We have a lot of snow on the road and when we have snow on the road that road is worse because then it's not as wide as it was because they're plowing it and building up the snow on both sides.

MR. WERSTED: That's certainly a condition. What happens when that school bus is coming through there at the same time and a passenger car, an SUV --

MS. GAYDOS: You're not talking about tractor trailers or big trucks. A tractor trailer wouldn't fit on there.

MR. DATES: It would just be a box truck.

MS. GAYDOS: A Pepsi truck is a big truck. I've been riding down --

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CHAIRMAN EWASUTYN: Ann, I think what we're saying is he looked and found a balance to this. We're picking things from all different menus and saying what about this and what about that. As a traffic consultant who makes recommendations to the Planning Board, he's saying it can work for the limited vehicles that will be providing supplies to the store.

MS. GAYDOS: I hope so. Thank you.

CHAIRMAN EWASUTYN: One more question.

MR. GAYDOS: May I ask through the Chair to the Highway Department?

CHAIRMAN EWASUTYN: He's not from the Highway Department. He's a traffic consultant who works for the Planning Board.

MR. GAYDOS: May I?

CHAIRMAN EWASUTYN: Go ahead.

MR. GAYDOS: Thank you. At the present time, like I mentioned, the bridge is out. Like I said, hopefully it never gets fixed. In the meanwhile the present plan is that if and when it does get fixed, Old South Plank Road is going to become a one-way street. Are you aware of that?

MR. WERSTED: Until the bridge becomes

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fixed it's going to become a one-way street?

MR. GAYDOS: Right now it's a nothing street. If and when the bridge is repaired, that street will become a one-way street. Are you aware of that?

MR. WERSTED: I'm not aware of that.

MR. GAYDOS: I think it would be to your benefit to look into that situation because that is the plan at the present time. Old South Plank Road will be a one-way street once the bridge is repaired.

CHAIRMAN EWASUTYN: How would that affect the project?

MR. PROFACI: It makes it better. It solves the problem.

MR. GAYDOS: I disagree.

CHAIRMAN EWASUTYN: Okay. That's why we have professional consultants, because we base it on professional opinion.

MR. GAYDOS: I'm sure the gentleman knows what he's doing. I'm not degrading him one bit. I'm just making him aware of the fact that he doesn't know and he should be aware of it.

CHAIRMAN EWASUTYN: Thank you. Any

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additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Any additional
comments from Planning Board Members?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a
motion that we close the public hearing on the
Christopher J. Noto site plan.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

Do you have a city flow acceptance

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letter from the city?

MR. DATES: Yes, I did receive that.

Would you like a copy?

CHAIRMAN EWASUTYN: Do you want to show it to Pat Hines.

MR. DONNELLY: While you do, will you give me the date of the letter?

CHAIRMAN EWASUTYN: When did you receive that, Justin?

MR. DATES: June 15th.

MR. HINES: That would be Tuesday.

MR. DATES: A copy was cc'd to Mr. Chairman.

CHAIRMAN EWASUTYN: I never received it. In the mail?

MR. DATES: It was e-mailed to me.

CHAIRMAN EWASUTYN: I didn't receive a copy. That's okay. Now we have it.

We have the sign to approve, which we didn't have approved last time. Bryant and Karen.

MR. COCKS: Yes.

MS. ARENT: John, the sign just needs to be located on the site plan.

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CHAIRMAN EWASUTYN: That's all we have to do. Okay.

You're going to do a field inspection with Justin to see what improvements may need to be done with the landscaping along Old South Plank Road.

Mike, do you want to bring us along, please?

MR. WARD: On the east side.

MR. DATES: This area we were speaking of.

CHAIRMAN EWASUTYN: All right.

MR. DONNELLY: The approval is site plan and ARB. We'll need a sign-off letter from Bryant Cocks concerning the memo -- the items in his memo of June 10th. I don't know if the applicant intends to avail itself of the deferral of the landscape security. Is that map note on there? If you wish to, and you're permitted to defer the landscape security until building permit rather than plan signing, you'll have to add the map note that's required to the plans and deliver certification and acknowledgement to the Town Hall.

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MR. DATES: Okay. I'll -- if Bryant can send me that.

MR. DONNELLY: Pat, you're done; right? Your issues --

MR. HINES: I have a couple technical comments outstanding.

MR. DONNELLY: And your memo, I don't know if I got that.

MR. HINES: It would have been from the last meeting.

MR. DONNELLY: April 8th?

MR. HINES: June 3rd.

MR. DONNELLY: June 3rd. Okay.

We'll need a sign-off letter from Karen on the landscaping adjustments and a report that the sign has been located on the plan in a conforming location. We'll need a DOT approval and the highway superintendent's approval. If either of those agencies requires a change to the plans you'll need to return to this Board for amended approval. We'll recite the receipt of the flow acceptance letter. The standard condition regarding Architectural Review Board approval. We will need a landscape security and

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an inspection fee of \$2,000.

MR. HINES: My memo was May 6th.

MR. DONNELLY: May 6th. Thank you.

CHAIRMAN EWASUTYN: Do the consultants have anything they want to add to that?

(No response.)

CHAIRMAN EWASUTYN: Planning Board Members?

MR. BROWNE: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: Nothing.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: I'll move for a motion to approve the Christopher J. Noto site plan subject to the conditions that were presented to us by our Attorney, Michael Donnelly.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by -- John Ward is it?

MR. WARD: Yes.

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KRISTOPHER J. NOTO

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CHAIRMAN EWASUTYN: Any discussion of
the motion?

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So
carried.

Thank you for attending.

MR. DATES: Mr. Chairman, did you
declare a negative declaration?

CHAIRMAN EWASUTYN: We did that prior
to having the public hearing.

MR. COCKS: It's a Type II.

CHAIRMAN EWASUTYN: You're right
because it's under 4,000 square feet.

(Time noted: 8:00 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: July 12, 2010

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

----- X
In the Matter of

SUBDIVISION FOR GARDNERTOWN COMMONS
(2009-12)

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

----- X

SITE PLAN

Date: June 17, 2010
Time: 8:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LORRAINE POTTER &
JOHN CAPPELLO

----- X

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

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MR. BROWNE: The next item of business is a site plan for subdivision for Gardnertown Commons.

MR. CAPPELLO: For the record, I'm John Cappello --

CHAIRMAN EWASUTYN: Would you let Cliff --

MR. BROWNE: I did.

CHAIRMAN EWASUTYN: I'm sorry.

MR. CAPPELLO: For the record, I'm John Cappello with Jacobowitz & Gubits. I'd like to introduce Lorraine Potter with Lanc & Tully who will explain where we are.

MS. POTTER: Good evening, Mr. Chairman and Members of the Board and Consultants. My name is Lorraine Potter, I'm with Lanc & Tully Engineering. We're here representing Gardnertown Commons.

The project is in a twofold state right at the moment. We have a conditional final approval on a 103 unit multi-family complex. This includes a -- it's being served by municipal water and sewer. It has an entrance off of Gardnertown Road with a loop road, and it also

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has a recreational facility.

The second portion of the project is a commercial -- not commercial, a cluster subdivision. In order to phase the project during construction we have a five-lot commercial -- excuse me, cluster subdivision which gives -- lot 1 being HOA ownership and then each condo or phase has its own lot. The site plan and the subdivision have been reviewed by your consultants.

CHAIRMAN EWASUTYN: Okay. I'll turn to Mike Donnelly. Mike, do you want to summarize some of this for us?

MR. DONNELLY: Sure. As Lorraine and John indicated, this project had received a final site plan approval some time ago. For various reasons, in order to phase it and to finance it, the applicant proposed to separate the site into five separate lots corresponding to that phasing plan.

You had granted preliminary subdivision approval some time ago. The applicant is now here to get final subdivision approval for all five lots and an amended but essentially only slightly

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changed site plan approval on a final basis for the overall project now on a phased basis.

One of the issues that was discussed for quite some time was how to handle the offering plans and the bylaws for the homeowners association and the various condominium pieces that will develop. I think we've gone through a lot of discussion and now there is a proposed offering plan. I believe bylaws were sent to Mark Taylor, the Town Attorney. I know he has looked at those. There may be some tweaks but I think he's largely satisfied with the direction it's taken. However, if you grant approval we'll need to condition it along with a whole lot of other items that I'll go through when you've heard from your consultants on a sign off on that offering plan and those bylaws.

If you'd like I can go through the conditions of the resolution, but if you want to hear from your consultants first, I'll hold off.

CHAIRMAN EWASUTYN: We do have to act on the wall. We sort of left off on the wall. Do you have an example of that wall? Then I'll turn to Karen.

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MS. POTTER: I have a plan of the wall.
I don't have any --

CHAIRMAN EWASUTYN: Karen, do you want
to comment on the wall? That's how we left off.

MS. ARENT: I reviewed the landscaping
that was shown on the revised landscaping plan.
All the landscaping is lower than the -- the
landscaping along the walls are low and there's
no landscaping in front of the site.

CHAIRMAN EWASUTYN: Okay.

MS. POTTER: Do you want to see a copy
of the plan?

CHAIRMAN EWASUTYN: No. Are we in a
position to approve the wall?

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: We have a
recommendation from our Landscape Architect that
the wall is approvable.

Now we'll go back to I think what Mike
Donnelly had suggested. We'll turn to our
Consultants for their final comments.

Pat Hines, Drainage Consultant?

MR. HINES: We reviewed the revised
plans. There's a couple of changes to the plans

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since you last approved them. Some of the units are now flat-type units, over and under, and that changed the grading a little bit in the area of those units. We've looked at that and found that to be acceptable.

We also reviewed the phasing plan and found that each of the phases as designed stands on its own and each can function independently.

The grading and drainage kind of has a break in the center of the site, and the phases have incorporated that into that plan.

There's also a temporary emergency access that must be constructed, I think during phase II. That was an issue that we had. That's been shown, the grading for that has been shown and the gate has been shown to make sure that's only used for emergency access.

So those are the significant changes since we previously approved the plan. I think you lost one unit.

CHAIRMAN EWASUTYN: 104 to 103.

MR. HINES: So with that the water, sewer and drainage -- the drainage facilities didn't change but the phasing plan has been

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modified and incorporates each of the utilities.
So it works. We're okay with it.

CHAIRMAN EWASUTYN: Okay. Jerry
Canfield, do you have anything? I apologize.

MR. CANFIELD: As with respect to the
flat units that Pat had mentioned, the revised
drawing shows that those buildings will be
sprinklered.

I also had a meeting with the
architect, the design professional and the
project owner with respect to sprinklering the
rest of the project. Although not required by
code, I did display benefits of him sprinklering
the rest of the buildings, perhaps construction
offsets that he may realize from it. So I think
it's a strong possibility he may sprinkler the
rest of the project.

CHAIRMAN EWASUTYN: Thank you for that.
Bryant Cocks, Planning Consultant?

MR. COCKS: The only layout issue that
I had was just a note that the applicant is now
proposing twelve-foot high pedestrian side lights
which conform to the Town of Newburgh design
guidelines. That was a change that was from the

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last time they were here.

In regards to SEQRA, the site plan was given a negative declaration on March 30, 2006. For the five-lot subdivision we did a SEQRA consistency document on February 18, 2010. A public hearing was held on March 18, 2010.

CHAIRMAN EWASUTYN: So everything is in compliance at this point?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: Notes about the grading and how each phase will be left are now on the drawings, so we can rest assured that the phases, if they're not completed they'll still look fairly decent.

The applicant submitted phased landscape cost estimates that were submitted to the Town Board for consideration.

That's it.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: There's an intersection improvement plan for the Gardnertown Road and

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Gidney Avenue intersection that has largely stayed the same since it was completed in 2006. It continues to hold true for the current proposal. So we don't have any further comments.

CHAIRMAN EWASUTYN: Comments from Board Members. Cliff Browne?

MR. BROWNE: Just one clarification. We're talking about phasing. I thought we were talking about construction phasing and not the typical condo phasing per se. Correct?

MS. POTTER: They coincide. The way it was setup, the construction phasing also goes along with the condo phasing. As you do the first phase -- you're not allowed to disturb any more than five acres at one time.

MR. BROWNE: What I mean is in the phasing you're not talking about phase I being like a condo --

MR. HINES: Yes, they are.

MR. CAPPELLO: There will be -- that's the subdivision. There are five lots. Each lot -- one lot will be owned by the HOA, then each condo will own a lot. As each condo is developed they will all become members of the HOA that will

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run the whole --

MR. BROWNE: It's back. I'm sorry. I remember the whole discussion now. Okay. Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I don't know if this is included in the plan or not, but as a phase is completed and you move on to the next one, is it done in such a way that you're not interfering with the phase that is already completed?

MS. POTTER: Yes.

MR. FOGARTY: Phase II, you know, their construction is not interfering with the quality of life issues?

MS. POTTER: Yes.

MR. FOGARTY: Okay. So that's already in the plan?

MR. HINES: We took a look at that for the traffic flow. The truck traffic will be diverted around. I think phase I and II may be

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contingent on each other but the subsequent phases will be able to go around each other.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No more comments.

CHAIRMAN EWASUTYN: We discussed it and it was undecided when the rec building would be built. Any further thoughts on that?

MR. CAPPELLO: I think what I'm hearing is the clubhouse will be built --

MS. POTTER: In phase I, and then the remaining recreation will be constructed when it's required.

CHAIRMAN EWASUTYN: And you're still seeking Town Board approval for the road names?

MS. POTTER: Yes.

CHAIRMAN EWASUTYN: So what we're looking at tonight, Mike, is an approval of the entry wall, approval of the five-lot subdivision and an amended site plan approval. Is that correct?

MR. DONNELLY: It's amended final site plan, final subdivision, and I guess we'll call it amended ARB for the wall.

CHAIRMAN EWASUTYN: Right.

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2 MR. DONNELLY: The conditions will be,
3 number one, although I think it's already been
4 accomplished, if you wish to defer the
5 landscaping security and the fee in lieu of
6 parkland, you'll need to carry the map note, and
7 a certification and acknowledgement has to be
8 delivered to the Town Hall. I think that might
9 have been done. We'll carry it as a condition in
10 a checklist fashion. The Town Board needs to
11 approve the roadway names. We need a sign-off
12 letter, as I mentioned, from Mark Taylor on the
13 HOA and condominium association offering plans
14 and bylaws. We need written approval from the
15 Orange County Department of Health on the water
16 main extension. There will be a requirement of a
17 notice of intent, SPDES before construction
18 begins. There were certain easements that were
19 required for the Town to enter upon the lands for
20 emergency utility repairs to water and sewer
21 lines. They'll need to be prepared and be signed
22 off by Mark Taylor before the plans are signed.
23 Construction phasing is referred to in the
24 resolution. While you may, if you choose, build
25 all of the phases simultaneously, you may also

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choose to construct them in order. However, if you don't construct them simultaneously they must be constructed in the order of the phasing plan. You can't take them out of order. Let's see. The emergency access for phase II has been shown, so we don't need that. All required off-site traffic improvements need to be completed before issuance of the thirty-first certificate of occupancy. I believe that is contained in the developer's agreement that you've already entered into with the Town. All of the recreational facilities must be completed before issuance of the forty-fourth CO. Clearing limits must be marked in the field and honored. Grading of the site is to be carried out only as infrastructure and buildings are installed, constructed and completed. You're going to need enter into, but I think you've done it already, a developer's agreement with the Town that recites the terms of the posting and disbursement of financial security. There will be a required landscape security and inspection fee, and Karen has pointed out in her memo the various amounts of the inspection fee by phase. Karen, I did find

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that letter so I don't need another copy.

There will also be a stormwater improvement security and inspection fee required, a water main extension security and inspection fee, sewer main extension security and inspection fee, a private road security and inspection fee. I believe there are some offers of dedication that will have to be signed off on by Mark Taylor. We'll have our standard condition which states that you may not build any outdoor fixtures, amenities or structures anywhere on the site that aren't shown on the site plan. Finally, you will need to pay both multi-family fees in the total amount of \$206,000, that's \$2,000 per dwelling unit, before any building permit is issued if you avail yourself of the deferral mechanism. If not, before the plans are signed. The ARB which was originally approved on June 3rd will be amended by virtue of the wall details that you showed this evening as of today's date.

CHAIRMAN EWASUTYN: Having heard the conditions of approval from our Attorney for final approval of the five-lot subdivision, the

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amended site plan and the amended ARB, I'll move for that motion.

MR. WARD: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you, Lorraine and John.

MR. CAPPELLO: Thank you very much on behalf of the applicant for all of your attention over the course of the years.

(Time noted: 8:30 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: July 12, 2010

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CINTAS WATER RECLAMATION

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

----- X
In the Matter of

CINTAS WATER RECLAMATION TRAILER
(2010-10)

1605 Route 300
Section 34; Block 1; Lot 29.1
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: June 17, 2010
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANDREW WARREN

----- X

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

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CHAIRMAN EWASUTYN: To accommodate the agenda, the following item that's scheduled is the subdivision of Gardnertown Commons. I ask that they sit patiently for a moment and we call a representative from Cintas if he's here.

Is there someone here from Cintas?

MR. WARREN: Yes.

CHAIRMAN EWASUTYN: Thank you. What we'd like to do is just have you receive the review comments that are necessary.

Jerry Canfield, do you want to add anything we were discussing at the work session?

MR. CANFIELD: The work session --

CHAIRMAN EWASUTYN: You weren't here for it.

MR. CANFIELD: I missed a large part of it. There was a question on one of the comments with respect to compliance, I guess, of the lot coverage. The applicant's representative has displayed on the plan that the lot coverage currently is 82 percent. The requirement for that area is 80 percent. I don't feel, though, that it's relative to this applicant -- I missed that portion of the work session -- simply

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because this application, the pad that this unit sits on, did not increase, or as I view it. Currently the project is existing nonconforming, and it's been that way for many years. The presentation of this application does not increase the degree of nonconformity because the area that this unit sits on was blacktopped anyway. It just sits on now a concrete pad.

CHAIRMAN EWASUTYN: Mike, do you agree with that?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Okay. Your name for the record?

MR. WARREN: Andrew Warren, architect with Dave Wieboldt's office.

CHAIRMAN EWASUTYN: You did make it a point of showing. Thank you. I thought you couldn't make it.

MR. WARREN: I rescheduled something.

CHAIRMAN EWASUTYN: Then I would appreciate in the future you would have notified us. Then we're holding someone off when there's been a change.

Do you want to come forward and tell us

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what you're presenting as far as the -- in the future, please. That's the problem we've been having with your office is the lack of communication.

MR. WARREN: Mm'hm'.

CHAIRMAN EWASUTYN: I said that to you on the telephone, David never returns calls. You weren't coming tonight and now you're here. It's a very difficult office to work with.

Do you want to let us know what you're proposing and if that's in reason as far as the trailer and screening.

MR. WARREN: Yeah. The proposal is to screen an existing water reclamation trailer that's shown on the site plan. We also have photographs showing the existing trailer that's on an existing concrete pad, and it's behind the building. It's an industrial use. It's kind of screened from the road right now.

We're just, you know, trying to -- at first we were thinking that we would do a temporary fence, but one of the comments was that something more permanent would be more appropriate, which we don't have a problem with,

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you know, changing that to make this more permanent.

I don't really have a problem with any of the comments. We'll make whatever changes are necessary that the Board sees fit.

CHAIRMAN EWASUTYN: I don't think it's the purpose of the Board to design these projects. Again, that's why I think the applicant hired you as an architect, to design the site plan. So again one more time, we're asking you what is it that you're proposing to erect there? What's the height of it? What's the material? I mean we're here to learn from you what it is you're looking to design and how you're going to design it.

MR. WARREN: Mm'hm'. Well, you know, we don't want to do something that's not appropriate for --

CHAIRMAN EWASUTYN: What is it you're presenting? That's what we need to know.

MR. WARREN: If we -- if you guys think it's more appropriate for us to put up a chain-link fence, we're fine with that.

CHAIRMAN EWASUTYN: What is it that

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you're proposing to do? We're not here to design your project.

MR. WARREN: We'll put up a chain-link fence to --

CHAIRMAN EWASUTYN: What height are you looking to put up a chain-link fence?

MR. WARREN: Probably six to eight feet.

CHAIRMAN EWASUTYN: Probably. What is it going to be?

MR. WARREN: Well --

CHAIRMAN EWASUTYN: Please help us along. I've struggled with this application for weeks and I'm still struggling now. Don't let the Planning Board struggle the same way I had to struggle with it.

MR. WARREN: I'm not -- we'd like --

CHAIRMAN EWASUTYN: We don't design projects.

MR. WARREN: I'm not trying to say that you guys -- I'm not deferring to you to design the project for us.

CHAIRMAN EWASUTYN: What were you proposing to do when you made this presentation?

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MR. WARREN: We proposed a temporary twelve-foot high screened fence, but, you know, due to the comments that we received, we would be amenable to changing that to a permanent chain-link fence that's the same height as we proposed previously, which was twelve-foot high.

CHAIRMAN EWASUTYN: Aesthetically, comments from Bryant, Karen. You've been to the site.

MR. COCKS: It's an existing site. It's basically just a trailer in the back. If it's chain-link is it going to have slats, --

MR. WARREN: Mm'hm'.

MR. COCKS: -- colored slats? How is it going to work when you open up? I know there's that satellite dish. I don't know --

MR. WARREN: We're going to move the satellite dish.

MR. COCKS: Okay, you're going to move the satellite dish. Okay. Is it going to open -- is it ever moved out or is it permanent there?

MR. WARREN: There could be a time when it may need to be moved.

MR. COCKS: How high is the trailer?

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MR. WARREN: I don't know if it's --
it's probably eight to ten feet.

CHAIRMAN EWASUTYN: Why would you have
a twelve-foot high chain-link fence for a trailer
that's --

MR. WARREN: To screen it.

CHAIRMAN EWASUTYN: -- that high?
Bryant, is this at all -- Jerry?

MR. CANFIELD: Just one thing, John.

CHAIRMAN EWASUTYN: You know the
history of this site. What is it that the
building department is looking to accomplish with
this? We need help because no one seems to be
leading the ship here.

MR. CANFIELD: Based on the applicant's
narrative of the project, I think I should say
this just for clarification for the record, this
application is much more than just installation
of screening. The application's narrative
basically describes a five-foot high fence.
That's not what we're talking about now but just
so the Board totally understands this is
basically, and it should include -- Mike, maybe
you'll concur, it should include the installation

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of this water reclamation trailer --

MR. DONNELLY: Itself.

MR. CANFIELD: -- and the screening thereof. I hear a lot of conversation, and the applicant's representative is making a presentation based on that we're here just to discuss the screening. I think the record should be set straight it's for -- I believe it's correct it's a conceptual site plan. It possibly could be an amended site plan but the site plan is so old on this building. It just should be clear so the Board totally understands that it's for the installation of this trailer and the screening thereof.

MR. WARREN: You're correct. I apologize for not stating that. Yeah, this was placed there without -- you know, without approval basically. The trailer.

MR. CANFIELD: Right.

CHAIRMAN EWASUTYN: Okay. So at a later time he's going to come back with an amended site plan?

MR. CANFIELD: I would think so.

CHAIRMAN EWASUTYN: What is your

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recommendation to the Board?

MR. DONNELLY: It should be an amended site plan application ratifying the trailer already constructed and allowing erection of appropriate screening to protect its visibility.

CHAIRMAN EWASUTYN: At this point I'm going to turn to the Planning Board Members for the Planning Board Members to decide what they feel is an appropriate height. Let's start with the height to begin with and then we'll work into materials or design of the enclosure.

Cliff Browne?

MR. HINES: If I could just interject. Tractor trailers are about thirteen, thirteen-and-a-half feet tall.

CHAIRMAN EWASUTYN: I hear an architect saying they're eight feet. So again, it's a difficult project. Extremely difficult. Extremely difficult. Even on the phone conversations, you can't make it, I had an appointment for months, I can't cancel it. Very disappointed.

MR. WARREN: Sorry to hear that.

CHAIRMAN EWASUTYN: For the record, I

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put in numerous telephone calls to David Wieboldt. He never returned telephone calls.

MR. BROWNE: From just the height standpoint, it's got to be high enough to apparently screen whatever this trailer thing is that's illegally there if I understood. I don't even think we should be considering the fence until they square that away.

CHAIRMAN EWASUTYN: What would the Board like to see? Make a motion.

MR. WARD: I'll make a motion to have him come back with their appropriate site plan for what they propose.

MR. MENNERICH: And that should include the height of the existing trailer I assume.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: So I have a motion by John Ward to table this to come back with the correct amended site plan showing the proposed screening, the height of the existing trailer.

What else would you like to see?

MR. WARD: And possibly defining whether it's a chain-link fence or there's another option of some type of panel that you can

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put around it. Don't hold it to a chain-link fence because it is high. We're not architects. You're the architect. You have different approaches you can do. Just figure out one.

MR. WARREN: Mm'hm'.

MR. BROWNE: There are other issues I have too, John. If we're talking about a trailer, typically that's something temporary. We're talking about something permanent. To me it's no longer a trailer if it's there permanent. It may be a trailer by design but it's a permanent structure. It's going to be sitting there forever. I think we have to have some code on that as well.

MR. CANFIELD: This structure, it's a trailer but it is permanently fixed. It's hard piped with water and utilities.

MR. BROWNE: What does that mean as far as code goes? We need to understand that.

MR. CANFIELD: It can be changed out.

MR. DONNELLY: It's just like it was a building.

MR. CANFIELD: You're correct, it is affixed.

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MR. FOGARTY: John, the first thing we have to do is -- we're saying that the tractor trailer is not there legally. Wouldn't that be the first thing to correct is the -- through whatever. Make the project at least legal, and then we can also talk about the fence at the same time?

CHAIRMAN EWASUTYN: I think that's what the amended site plan would do, make it legal. In the course of doing that we'll also come up with accepted screening that we'll approve.

MR. MENNERICH: One other thing, John. On the acceptable screening, whatever it is that you do propose, I would suggest that you have engineering calculations for wind loading and that sort of thing because for such a high -- what appears to be a high screening there's going to have to be some structural considerations I would think.

CHAIRMAN EWASUTYN: Okay. I have a motion by John Ward, --

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: -- I have a second by Cliff Browne to table any action on the

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application for Cintas. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Let's review it so we don't have difficulty. When you're ready to resubmit --

MR. WARREN: Mm'hm'.

CHAIRMAN EWASUTYN: -- we have a narrative letter that completely outlines what you're proposing. You call the office, you look to make an appointment to resubmit. I always return calls either the same day or the next day. There's not a person in Town who doesn't know that. We'll arrange for what day you can deliver, how many copies are needed. When the agenda is set the agenda is set. Okay?

MR. WARREN: Mm'hm'.

CHAIRMAN EWASUTYN: If there's a change of who is going to be representing, I would like to know. We asked someone to wait when it was

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really unfair to ask them to wait. Okay?

MR. WARREN: Thank you.

CHAIRMAN EWASUTYN: You're welcome.

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

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

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

DATED: July 12, 2010

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

----- X

In the Matter of

RESUBDIVISION OF LOT 2 OF PALMERONE & TAYLOR WAY
(2010-14)

Dara Drive
Section 20; Block 1; Lot 2.12
IB Zone

----- X

CONCEPTUAL TWO-LOT SUBDIVISION

Date: June 17, 2010
Time: 8:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: THOMAS DePUY

----- X

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MR. BROWNE: Our next item of business is a conceptual two-lot subdivision, the resubdivision of lot 2 of Palmerone and Taylor Way. It's being represented by DePuy Engineering, Tom DePuy.

MR. DePUY: I'm Tom DePuy of DePuy Engineering. This is a proposed two-lot subdivision.

I'll just give a little history. This was lot 2 of the original Palmerone subdivision. This is Dara Drive here. There was a proposal, when we first did the Palmerone subdivision, that we were going to locate a stormwater pond over here on the adjacent property which was Summer Kim. This is a blow up of that area there. There was a proposed subdivision in here. We were going to bring the stormwater and have a stormwater pond here, and then there was a road that was going to have the right to come through and extend there and go up the hill.

What happened is there was an ongoing lawsuit that had prevented this from happening, plus the adjoining owner hasn't given the deed for this parcel. I advised Mr. Staples, the

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owner of Road Holding Corp and the original developer of Palmerone, that we have to put a pond in this area here in order to bring the subdivision in compliance with the State stormwater laws. So basically, even though this is represented as a two-lot subdivision, it's from an ongoing issue with the original Palmerone subdivision.

What happened was we were prevented from going across the old Taylor Way in order to get to this parcel, and we haven't gotten the easement for that either.

What we're proposing is Mr. Thurst has given Road Holding Corp the right to put a drainage easement down through here and cut a portion of land off in fee, which would be dedicated to the Town for this new stormwater pond here. This pond will bring the overall subdivision in compliance with the State stormwater laws.

Basically this part of Summer Kim had been put on hold by Mr. Hankin, so we have nothing going on in that area at this time. The original Palmerone subdivision did have a

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cul-de-sac here, and then as we were developing, because we represented all the parcels in that area, it was supposed to go through and then this was going to be abandoned, but at this point in time it's still a cul-de-sac.

Basically the stormwater pond will be constructed in accordance with the regulations of the DEC. There will be landscaping involved and everything down there. There will be an access way coming down for the Town to access that fee parcel, but that parcel is going to be a stormwater management fee parcel for dedication to the Town of Newburgh.

CHAIRMAN EWASUTYN: Pat Hines, do you want to bring us along on this further and the question whether Summer Kim is an approved subdivision?

MR. HINES: Sure. Did you get my comments today? I got your stormwater management report and I was able to review it. I sent out some comments today.

I have some technical comments on that. One of the things that came up was the previous pond on the Summer Kim parcel was part of a

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drainage district I believe.

MR. DePUY: Yes.

MR. HINES: The question of who now is going to own, operate, pay for the maintenance and operation of this new --

MR. DePUY: The district encompasses quite a few parcels, Summer Kim, Hickory Shadow. I don't have the district mapping with me but it was a large drainage district.

MR. HINES: Right.

MR. DePUY: So that will still be governed by that drainage district.

MR. DONNELLY: You're going to need to go back to the Town Board because that drainage district was created with a proposal and an estimate of costs and a number of pieces. So I guess what we're saying is you're going to have to meet with the Town engineer and the Town Board to see whether they'll accept dedication of this piece, to see whether there's any changes that need to be made to the drainage district and its formation.

MR. HINES: Because I believe Summer Kim, for an example, was part of that original

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drainage district.

MR. DePUY: Yes.

MR. HINES: And now because of the change they no longer derive any benefit because this is strictly now taking stormwater from the Palmerone/Taylor Way subdivision.

MR. DePUY: This pond here they didn't get any benefit from either.

MR. HINES: I think they did because some of the roadway -- Dara Drive Extension was tributary to that also I believe.

MR. DePUY: But there was another large pond.

MR. HINES: Understood.

MR. DePUY: This original pond design was just for the Palmerone subdivision at that time, and then we were going to -- if Summer Kim developed it, we were going to abandon this pond and bring our water into the overall pond. That's how it was proposed. So what we're trying to do is trying to bring this subdivision into compliance by putting this pond --

MR. HINES: I understood. I just wanted to make sure there's someone paying the

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Town for the operation and maintenance of that.

MR. DePUY: He just told me there's deed restrictions for payment on this pond within the Palmerone subdivision. This parcel and everything else is in the district, so --

MR. DONNELLY: But you're making changes to the district and its facility. You just need to go back to the Town Board and the Town engineer.

MR. DePUY: It's almost the same size pond. There's a little more piping --

MR. HINES: The tributary to the one pond is still the same.

MR. DePUY: What was going to be tributary to this pond is still tributary to that pond.

MR. HINES: I was under the impression Summer Kim went in there -- the Summer Kim subdivision portion and some of the Dara Drive extension went in there.

MR. DePUY: No. What happened was -- our proposal was that when overall Summer Kim developed this --

MR. HINES: That was going to be

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eliminated.

MR. DePUY: -- that was going to be eliminated and everything was going to go to that large pond. Due to the lawsuit we're on hold. This subdivision is not in compliance.

MR. HINES: You understand the concern I have is I want to make sure --

MR. DePUY: We're not -- somebody isn't benefiting over here for this pond.

MR. HINES: We need a chart to figure it out. So just take a look at that. Obviously the Town Board is going to be involved in that.

MR. DePUY: We have no problem with going to the Town Board.

MR. HINES: I did note a Maria Thurst is also a record owner, so I think you're going to need to follow up with a signature from her.

MR. DONNELLY: You sent a Faxed authorization for Mr. Thurst.

MR. DePUY: Yes.

MR. DONNELLY: We need one signed by both and the original to be delivered.

MR. DePUY: I've got the original of Mr. Thurst.

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CHAIRMAN EWASUTYN: For the record, you are?

MR. THURST: Mr. Thurst. William Thurst. My wife asked me why didn't I get to sign it. I said I don't know.

MR. HINES: You can tell her she does.

CHAIRMAN EWASUTYN: You may have to go home and apologize.

MR. THURST: I think I will.

MR. HINES: My other comment was to make sure the cul-de-sac will be constructed. The rest of my comments are technical regarding inverts and such.

MR. DePUY: We had a mistake.

MR. HINES: I have a couple more on the stormwater report. I'm sure you can work that out. I can give you a copy actually. I thought it got e-mailed to you.

MR. DePUY: All right. Do you want the original of the owner?

CHAIRMAN EWASUTYN: Please. I'd like that. Thank you.

CHAIRMAN EWASUTYN: Bryant Cocks, comments?

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MR. COCKS: My first one is this is an agricultural district and that automatically makes it a Type I action, therefore we will need a full EAF submitted. We're going to have to send it back to Ag and Markets.

MR. COCKS: It's in an ag district.

MR. HINES: I believe it's probably listed as Type I if it's 2.5 acres of disturbance. It takes the 10 acre threshold down to 25 percent of any threshold. I think we're okay.

MR. DePUY: We're only disturbing a half an acre.

MR. COCKS: Okay. It does still have to go to the County. That was another comment. I was just wondering, is this going to be fenced or gated?

MR. THURST: That was the question I had.

MR. DePUY: The standard fence we had. We'll have it fenced in the same as the others.

MR. HINES: That's also one of my comments. The Town of Newburgh Town Board is going to want that anyway.

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MR. COCKS: There's a gravel driveway leading up to that lot?

MR. DePUY: We're proposing gravel.

MR. COCKS: We have to be sure that the highway department, or whoever it is, is okay with utilizing that.

MR. DePUY: Yup.

MR. COCKS: Just a signed and sealed survey sheet.

MR. DePUY: Yup.

MR. COCKS: That was it.

CHAIRMAN EWASUTYN: We had discussed at our work session if you could give us a legend of all the projects you discussed, Hickory Shadow, Summer Kim, and what approvals they have, what stage they're at so we could have an update on that.

MR. DePUY: I'll give you an overall map and what has final approval and what has preliminary.

MR. HINES: The question was Summer Kim. Summer Kim only has conditional or preliminary.

MR. DePUY: It only has preliminary.

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MR. HINES: It would be helpful to see.

CHAIRMAN EWASUTYN: Comments from Board Members. Cliff?

MR. BROWNE: No.

MR. MENNERICH: If the legal matter going on gets settled with Summer Kim, will that road then be extended through?

MR. DePUY: Well at this time Summer Kim has been put on hold. So that's up to Mr. Hankin who is the owner of Summer Kim.

MR. DONNELLY: Are you making provision for that to happen in the event that whoever owns that at that time wants it there?

MR. DePUY: Yeah. We've left the right-of-way to the Summer Kim property. It isn't like we left anything short. There's still that ability to continue that road through. We haven't done anything to prevent that. I can't guarantee it at this time but they've got preliminary approval. They kind of put it on hold. I'm not sure where it's going but we've left the ability for it to be extended through at a future date.

MR. MENNERICH: So the notes you have

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about the reverting of property and what not, the
cul-de-sac, that's staying in?

MR. DePUY: Well, it's hard for me
because -- I guess we could take that off.

MR. STAPLES: It can stay.

MR. DePUY: If it never gets extended
-- I guess we can leave it as a reversion. Yes.

MR. DONNELLY: It only reverts --

MR. DePUY: If the road gets extended.
Yes.

CHAIRMAN EWASUTYN: Anything else?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing, John.

MR. FOGARTY: I have a question on the
road. Who is responsible for maintaining that
road?

MR. DePUY: The access road to the
pond?

MR. FOGARTY: Yes.

MR. DePUY: That would be the Town.

MR. STAPLES: Until it's dedicated.

MR. DePUY: Until it's dedicated.

CHAIRMAN EWASUTYN: For the record you

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are?

MR. STAPLES: Hamilton Staples.

MR. HINES: Dara Drive is currently a private road, and I believe Road Holding Corporation is currently maintaining it.

MR. DePUY: It was offered for dedication but it hasn't been accepted.

MR. HINES: And then the access to the detention pond is in an easement that would be maintained by currently the highway department and/or a future contractor if hired by the Town to do that maintenance.

MR. DONNELLY: That maintenance would be paid for by the district properties as part of their assessment.

MR. HINES: Someone.

MR. FOGARTY: Thank you.

MR. DePUY: I'll also bring in the map of the drainage district so everyone understands what properties are in the district.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: I'll move for a motion now to grant conceptual approval for the resubdivision of lot 2 of Palmerone and Taylor

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Way and to circulate to the Orange County
Planning Department. We'll get maps to Bryant.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. Thank
you.

MR. DePUY: Thank you.

(Time noted: 8:43 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: July 12, 2010

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

----- X

In the Matter of

NEWBURGH TOYOTA
(2009-15)

Route 17K
Section 89; Block 1; Lot 67
IB Zone

----- X

SITE PLAN

Date: June 17, 2010
Time: 8:44 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- X

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

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MR. BROWNE: Our last item of business is a site plan for Newburgh Toyota being represented by Gregory Shaw

MR. SHAW: For the record, my name is Greg Shaw, Shaw Engineering. With me is Dominick Cordisco who is the attorney for the project.

MR. CORDISCO: Good to see you all again.

MR. SHAW: This is about our third or fourth visit to this Board, and I think we've come to a point where tonight we're going to ask for conditional site plan approval. Before I do let me just go over briefly the project with the Board.

It's on a 5.5 acre site in an IB zone on the north side of 17K, about 1,300 feet east of Governors Drive. We're proposing a new car dealership for Toyota of Newburgh. The building will total approximately 45,000 square feet, and along with that we're providing fifty parking spaces for customers, visitors and employees, fifty-five spaces, both external and internal to the building, for car service, and a hundred and thirty-eight for car storage.

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The building will have access via one entrance onto Route 17K, and that will require a permit from the New York State DOT.

With respect to utilities, we'll be tying into the Town's water system. There's a sixteen-inch main on Route 17K.

We'll also be tying into the Town's low pressure sewer system on 17K which ultimately discharges into the City of Newburgh. We've provided a flow acceptance letter from the City of Newburgh for this project.

Finally with respect to storm drainage, we are providing two water quality stormwater detention ponds. Both are independent of one another and both discharge into the existing drainage swale on Route 17K. That flows in a westerly direction and then crosses 17K via a thirty-six inch by forty-two inch corrugated metal pipe onto the lands of Stewart Airport where it flows through a creek, through a wooded area at the airport.

The last time we were before this Board I think the Board was comfortable with the overall layout of the project site but we did

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spend a good amount of time talking about the buffer area. I think the wording was rather than trying to buffer the site, this Board wanted landscaping that would compliment the site. I think, you know, we have achieved that. On the landscaping plan there is much more landscaping on this site than what was previously submitted.

Also a different change from the previous plan was a display area which we have incorporated into the project. That display area is going to have a surface of concrete paver bricks, it will have an architectural wrought iron fence around it. It will be supported, at least one of the display areas, by a Rockwood masonry wall which will retain back the earth, and then for a more decorative feature we have a stonewall that's approximately three-and-a-half, four feet high with plantings on the shelf between the two walls. In speaking with Karen, one of the comments that she has is what would be the color of these walls, and I think she's in agreement with myself that it should be of a gray tone to match the walls at the entry of the project site. I think the only question

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outstanding is would the Board prefer to have a Rockwood wall and a stonewall at a lower elevation or just a double tier Rockwood wall, again gray in color. So it would be similar in color to the entry walls coming into the project but different material.

I think I've touched on all the important features. I know the comments which I was nice enough to receive, we can speak about as your consultants go through them, but I think we're down to a short list at this point.

Thank you very much.

CHAIRMAN EWASUTYN: I forget, you called at one time during the week to say you had something and I said bring it to the meeting. Why I didn't take it earlier tonight is because -- now we know what we're looking at. This is more appropriate.

MR. SHAW: What the Board did at the last meeting is you gave conceptual architectural review approval and part of that was the signage. With that they were over on the drawings that were presented because a name had to come off. We talked about taking the name Newburgh off or

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Scion off. The name had been taken off and I said these are revised drawings, what do you want me to do, resubmit them for review or just hold on to them. He said bring them to the meeting, so I have them with me.

CHAIRMAN EWASUTYN: Thanks. And you have copies for everyone?

MR. SHAW: Yes. There's three large copies and nine smaller copies.

MR. CORDISCO: The only change on those plans was to reflect that discussion at the last meeting.

MR. SHAW: So now we are within the square footage of signage that the zoning ordinance permits.

CHAIRMAN EWASUTYN: What would you like to do as far as the wall rather than going back to --

MR. SHAW: I personally think that you would be better off with a double tiered, gray toned, Rockwood masonry wall than mix the two types of materials. That's my personal opinion.

CHAIRMAN EWASUTYN: We'll start by getting the opinion of the Planning Board Members

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and then we'll refer. Cliff Browne?

MR. BROWNE: We talked about that in the work session. Actually my opinion is I kind of deferred to Karen. It was kind of like we would like to see something. Well, whatever. We basically decided we'll ask. So I think I would prefer to give it to Karen.

CHAIRMAN EWASUTYN: I'm asking your opinion and then we'll poll the Board Members. We're here to make decisions also.

Ken?

MR. MENNERICH: I like what Karen suggested and presented. Rather than the Board Members trying to do it, let her do it.

CHAIRMAN EWASUTYN: Again I like to discuss it because I believe we're as qualified to discuss the materials. So you're talking about you have a wall there and you want to present what material?

MR. SHAW: I need a wall to hold back the dirt. About six feet of dirt. That is why I primarily went with the Rockwood wall. It has geofabric in it and that's going to retain the earth. Rather than having let's say six feet of

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that Rockwood wall exposed, what Karen -- she didn't suggest but what we talked about and I put on the plan was to address it with a three foot high stonewall. That stonewall would match the stonewall of the entry. So it would be gray tones on both the stonewall and the Rockwood wall but they would be two types of materials. Would that look okay? It's really subjective. I think it would. Again, in both scenarios you're going to have about four feet of a flat area which is going to be plantings. Landscaping is not the issue. I need a structural wall. The large Rockwood wall has to stay. It's really just a question of the small knee wall in front. Rockwood to match the large wall in the back. When you look at it you're going to have a band of a four-foot high Rockwood wall let's say, a four-foot level tier, and let's say another three-foot high band of Rockwood wall also which is in the background. You're still going to see seven feet of it broken up on two planes with a terrace between them .

CHAIRMAN EWASUTYN: That sounds simple enough.

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Ken?

MR. MENNERICH: I guess the question we're wondering is have you considered pouring in place a reinforced wall and just doing a facing on the wall?

MR. SHAW: No, I didn't consider it. As you're explaining it to me my gut reaction is, one, it's more expensive; and two, I think you would want to break up something rather than have a six-foot, seven-foot exposed face. I think that's what you're talking about. If you're talking about just pouring a reinforced concrete wall but putting a stone veneer on it, that's what you're going to be looking for. Let me give you an exact elevation. Bear with me. You're going to be at about maximum eight to nine feet of an exposed face. That's why we thought it would be better off to break it up into two tiers.

MR. MENNERICH: Okay. Joe Profaci?

MR. PROFACI: If I'm understanding you correctly, there would be three levels?

MR. SHAW: Two.

MR. PROFACI: Two levels?

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MR. SHAW: Correct.

MR. PROFACI: So there would be a knee wall in front of the retaining wall?

MR. SHAW: Correct.

MR. PROFACI: You said something about another three-foot band around the top.

MR. SHAW: What I'm going to do is build a Rockwood masonry wall, say eight feet high. In front of that, four feet closer to the highway, I'm going to build another wall which is going to be four feet high. So as we're looking at the wall you're going to see four feet. Let's say it's going to be a Rockwood wall. You're going to have a four-foot horizontal area for planting and above that, this is the word band, you're going to have another four feet of exposed Rockwood masonry wall.

MR. PROFACI: That's what I understood but then I got confused by what you said.

In my opinion the materials should match each other. In other words, the retaining wall should match whatever is in front of it. That's my opinion.

CHAIRMAN EWASUTYN: Tom Fogarty?

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MR. FOGARTY: I'm basically visually illiterate. I'm just worried about -- not worried about. The retaining wall, obviously there's a great deal of material that's going to be applying some force on that wall.

MR. SHAW: Right.

MR. FOGARTY: Wouldn't a concrete wall, the poured concrete wall be structurally better than -- I really don't understand how your wall is attached to the ground.

MR. SHAW: What you have is when you build this Rockwood masonry wall you build it out of precast masonry units, and the first thing you do is excavate out the area. You put in maybe three rows of block. Now you're up two feet high. Then you take this geogrid fabric, which is a plastic fabric, and you run it back into your excavation and you put dirt on top of it, you go up another three rows of block, let's say another two feet, put down some more geogrid, run it back down into the excavation and put dirt on top of it. What keeps the wall from tilting over is that this fabric is attached to the wall. While the wall has a tendency to tilt, it won't because

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it's connected to the fabric and the weight of the earth that's on the fabric keeps it in place.

MR. FOGARTY: That's good. Thanks.

I'm really up in the air about the wall and whether it should be one color or two colors. Maybe if we could see some samples of --

MR. SHAW: I think -- I would like to propose that it be of a gray tone because you don't want it to be a tan. I think you would want to match the stonewalls in the front. You don't want it to jump out at you, you want it to blend with you.

In answer to that question I went to my Rockwood catalog today to bring samples. If you want a color sample kit you have to order it, which I did online today but they do not include it in the catalog, nor do they have it on their website. I don't have any colors to bring with me. I think pretty much a gray tone is what we're looking at.

MR. FOGARTY: Good. Thanks.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'm basically looking at the character of the wall and everything, and

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strength for long durability, and I'm pushing the structural concrete wall with the stone veneer that matches the dry retaining wall. To me it's a better wall, it's stronger and overall it will hold up. It's no hands down compared to what you're proposing.

MR. SHAW: The only down side is you're going to have an exposed face.

MS. ARENT: You can still terrace it. You can still put that wall in front.

MR. SHAW: That's just very expensive. You're asking to have a double tier wall when one would suffice. If the Board requests it we're going to have to comply. It's just very expensive.

MR. WARD: I'm mentioning you've got the front by 17K and here you're going to have cars and everything else. You need something strong there, and that's basically what I'm saying is structurally sound.

MR. DONNELLY: You might want to ask your engineer what he feels about --

CHAIRMAN EWASUTYN: Pat, do you want to comment on that?

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MR. HINES: Rockwood walls are structurally sound enough to put vehicles on top of. You could build them thirty feet high and have the structural stability. I think we're looking at aesthetics here now, not structural issues. Either of those will function.

CHAIRMAN EWASUTYN: I think maybe before we go into the actual detail, is the Board -- will the Board approve a Rockwood wall? Then we'll go into the design element as far as the structural wall.

MR. HINES: Just to note, the other wall is similar. It's on the detention pond area that you'll see coming --as you're heading towards Route 84 and 17K.

CHAIRMAN EWASUTYN: And that was nine foot high we discussed?

MR. HINES: That's about nine feet high. That has the same veneer proposed that -- that gray looking veneer.

MR. SHAW: What wall? This, Pat?

MR. HINES: That has a gray veneer also.

MR. SHAW: That is a structural wall

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because we're by a pond and it has --

MR. HINES: You have to explain to the Board why. Because of the pond.

MR. SHAW: Correct. It has a stone veneer, a color to match the building, okay. That's what's called out on the plans. It's not a gray tone, it's not a Rockwood wall. It's a structural wall with a four-inch veneer on it.

CHAIRMAN EWASUTYN: Would the Board accept a Rockwood wall for what we're discussing now?

MR. MENNERICH: Can I ask just one question? The Rockwood walls, are they setback a little bit as each layer goes up?

MR. SHAW: They stagger like a half an inch as it goes back.

MR. HINES: It's even less than that.

CHAIRMAN EWASUTYN: I think they used a Rockwood wall at the gas station on Union Avenue.

MR. HINES: I haven't been by there.

CHAIRMAN EWASUTYN: That's what we approved, and that was of a higher --

MR. HINES: That was like eleven feet.

CHAIRMAN EWASUTYN: So we've actually

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approved that use.

MR. HINES: You've approved them before. In front of Lowe's.

MS. ARENT: Lowe's has it.

CHAIRMAN EWASUTYN: Would the Board approve a Rockwood wall as far as structurally for this, and then we'll get into the design.

MR. BROWNE: From a structure standpoint; yes, fine. Still probably visually I can't focus.

MR. FOGARTY: I don't have any problem with that.

Greg, just a point of information. How much more expensive? Would you have any idea of how much more expensive the difference is between the Rockwood wall and --

MR. SHAW: Percentage wise or dollars? Dollars I wouldn't even begin to guess. That's all it would be is just a wild guess.

MR. FOGARTY: It's definitely substantially more?

MR. HINES: Three times, four times.

MR. FOGARTY: Is that right?

MR. HINES: Those Rockwood walls you

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can probably build for \$100 a square foot. A masonry wall is probably \$400 a square foot.

CHAIRMAN EWASUTYN: All right. Pat, do you have anything to add to this?

MR. HINES: I think either of them are structurally sound. I think you're looking at more of a visual and aesthetic issue.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have no further comments. Just a note that they did receive their City of Newburgh sewage flow.

CHAIRMAN EWASUTYN: I'm talking about the wall itself. We'll finalize that.

MR. COCKS: With the wall, stone is going to be in front. I just asked Karen, the plantings are pretty much going to screen the whole back side of the wall anyway. Even if it was rock, you really wouldn't see that much of it.

CHAIRMAN EWASUTYN: Karen, do you agree?

MS. ARENT: Ideally it would be, you know, a stone veneer on a structural concrete wall. If that was possible we'd ask that the

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wall by the detention basin kind of match so that we have a continuous look through the corridor.

And the screen planting proposed is Inkberry which is -- it's fairly dense so it will screen some of the wall. There's no guarantee that it will grow that well to screen it. As we know with plants, sometimes they grow well, sometimes they don't.

So ideally it would be, you know, a stonewall to match all the other walls in front. If it was possible, make the detention wall also stone so we carry the corridor that we have established on 17K, that would be -- that would be really the best looking option.

CHAIRMAN EWASUTYN: What are you willing to present us with now that -- we realize there's costs associated with some of this. What do you find that will work for your client?

MR. SHAW: I honestly think what makes the most sense is to have a double tiered Rockwood wall.

CHAIRMAN EWASUTYN: Fine. Is the Board -- Cliff, are you okay with that?

MR. BROWNE: Yes, I am. I'll just make

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a comment, though. I am very pleased that you incorporated those display areas in the plan.

CHAIRMAN EWASUTYN: Very nicely done. Very tasteful.

MR. SHAW: We thank the Board because it was really your idea.

CHAIRMAN EWASUTYN: And the wrought iron gate and the pavers, excellent. Excellent. Well said. That really complimented what we're weighing now. I think considering we wanted a display area, we got a beautiful display area, I don't think we're trading off too much.

MR. CORDISCO: We didn't want to have a situation where we were parking on any grass areas.

MR. MENNERICH: I think the terraced wall makes more sense than the one high wall. So I'll go along with the Rockwood.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I'm fine.

MR. PROFACI: I'm fine.

MR. SHAW: I assume that will be a gray tone.

CHAIRMAN EWASUTYN: In the future I

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know -- I think what we're really missing here, and work with us, bring us something that -- like Tom, like myself, like everyone are visually blind. Bring us in some meat and potatoes so we can actually talk about it and see it. All right.

MR. MENNERICH: A picture of one that came out great.

CHAIRMAN EWASUTYN: Or that's at least leaning to the left or leaning to the right so you know what to expect.

Do you want to help us summarize the action before us tonight.

Jerry Canfield?

MR. CANFIELD: I have nothing outstanding. All of our previous comments have been addressed.

CHAIRMAN EWASUTYN: Pat?

MR. HINES: Our previous comments were addressed. We received a response to all of our comments, including modifications to the pump station and the pumps that we had requested.

The analysis of the culvert pipe in the front has been provided and a low-profile precast

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concrete culvert has been proposed to pass the anticipated storm flows.

We did suggest a note that no loading or unloading of vehicles be permitted on the State highway be added to the plan. I've been by their existing facility and there's no way you unload your vehicles along the State highway there. Just a note to that matter.

Otherwise all of our previous comments have been addressed.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I jumped the gun on that one comment, but that was all I had.

CHAIRMAN EWASUTYN: Thank you.

Karen Arent?

MS. ARENT: That's it.

CHAIRMAN EWASUTYN: Ken Wersted, please.

MR. WERSTED: We had just basically two site plan comments. One was the orientation of the dumpster area next to the car storage area, whether a garbage truck will be able to orient itself in front of the dumpster and square up and do its business. We want to make sure that can

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be accommodated.

The second site plan comment was just the ability for a car carrier to make the first turn in front of the dealership and circulate around. I'm assuming that loading and unloading would take place on the northern side of the building. The first intersection might be a little tight. I know car carrier dimensions are a little different than the standard that we have. So I guess that will have to be double checked. A traffic study by John Collins Engineers was submitted for the project as requested by DOT, and the amount of traffic coming and going varies between 90 and 105 trips during the a.m. and p.m. peak hours. Roughly there is going to be about one car entering and/or exiting per minute at the peak hours if you will.

As you're aware, Route 17K is quite busy between Route 300, the airport and the I-84 interchange. There's a lot of traffic traveling east and west in the morning and the afternoon. The traffic entering the site isn't going to be of a significant amount, one car a minute, but

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there will be several cars behind those vehicles turning left in. So two points that we asked DOT to consider as going for the work permit, one is the current passing zone through there. It may be reasonable to have that removed and to make a double center line with a no passing zone. The other would be the potential need for a left-turn lane to get into the site. Right now there are some wider shoulders that vehicles traveling through would more than likely use the shoulder to pass a left-turning vehicle when that does happen. The other alternative is to widen the road to provide a left-turn lane in, however it would be a benefit for the project but it may not be a strong necessity because of the volume of traffic going in and out. So that will be an item for DOT to consider.

MR. SHAW: Can I respond to that, Mr. Chairman? Just two points. I spoke with Phil Greely regarding your review comments and he said all the points you brought up have merit with respect to the DOT and that the DOT will look at all those issues when it comes time for the permit.

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The one point I wanted to make -- bring out about vehicles loading and unloading. The intention when I laid out the site was for the car carriers to come up, pull in this fashion, back out and come down in this fashion. I made this intentionally wide in here to allow the vehicles to access. The intention never was for them to circumvent around the building either clockwise or counterclockwise, it was to pull up in this fashion, do a K turn and then pull back out again.

MR. WERSTED: That would certainly address the issue of the turning movement in the front. The dimension vehicle that I had used, it was tight. So if you were off a little bit, you'd probably hit a curb. If you were right on you would have made it. So should that happen, if the driver is careful they'll be able to do it. If the direction is to pull into the back, do the K turn --

MR. SHAW: That's what it is.

Thank you, Mr. Chairman.

CHAIRMAN EWASUTYN: The items that are outstanding this evening, Mike Donnelly. Mr.

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Shaw started his presentation. He's here this evening to hopefully receive site plan approval.

MR. DONNELLY: I just need one clarification. We talked an awful lot about the rock wall. Is what we're doing what's shown on the plans or did they need to be modified?

MR. SHAW: They need to be modified.

MR. DONNELLY: Okay. So who of the consultant team should sign off to make sure those modifications have been done?

CHAIRMAN EWASUTYN: Karen can sign off on that.

MS. ARENT: Make sure you write the color on the detail.

MR. DONNELLY: Number one, we'll need a sign-off letter from Pat Hines saying that the map note that prohibits unloading of cars from the State highway has been added to the plans. Next we'll need a sign-off letter from Karen that the rock wall details have been correctly shown on the plans. If you're going to avail yourself of the deferral of the landscape security, the map note either has been or will need to be added and the acknowledgement and certification will

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2 have to be delivered, but the resolution will
3 authorize that there will be a need for
4 Department of Transportation approval. If by any
5 chance they were to change the location of the
6 entrance way or something of the kind, you would
7 need to come back for amended site plan approval
8 from us. We have a condition that says that no
9 outdoor parking or display of automobiles shall
10 occur outside of those areas shown on the plan
11 for such purpose, and that's the reason why we
12 wanted to see the display area actually. You
13 received your City of Newburgh sewer flow
14 acceptance letter, and we will reference that in
15 the resolution of approval. We'll have the
16 standard Architectural Review Board condition.
17 The approval was actually granted on June 3rd.
18 At the time it was we had a condition that
19 required that the renderings and site plan be
20 revised to remove the Scion sign to bring the
21 sign area back down where it was. Since that's
22 been accomplished by delivery of plans here
23 tonight, I'll remove that sentence from that
24 condition because it's no longer needed. There
25 will be a landscape security and inspection fee.

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The inspection fee amount will be \$2,000. A stormwater improvement inspection fee, a security inspection fee. Finally the condition that says that no outdoor fixtures, amenities or structures not shown on the site plan may be built without further approval of the Board.

MR. SHAW: Thank you.

CHAIRMAN EWASUTYN: Any additional comments to the resolution for final approval and -- ARB also on the signage, Mike? Is that what you said?

MR. DONNELLY: Well, I don't know that we need to really amend it because the original resolution said that the signs had to be removed and they had been. So it's not confusing, I've taken that part out.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. BROWNE: No.

MR. MENNERICH: No questions.

MR. FOGARTY: No comment.

MR. WARD: I just want to say thank you for doing the six-car display. That was the big issue when you first came. I appreciate it.

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NEWBURGH TOYOTA

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After talking and hearing Pat Hines, our engineer, saying about the retaining wall, I'm all for it.

MR. SHAW: Thank you.

MR. CORDISCO: Thank you very much.

CHAIRMAN EWASUTYN: I'll move for a motion to grant site plan approval to the Newburgh Toyota site plan subject to the conditions presented by our Attorney, Mike Donnelly.

MR. FOGARTY: So moved.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty.

MR. PROFACI: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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NEWBURGH TOYOTA

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CHAIRMAN EWASUTYN: Myself yes. So
carried.

Thank you.

MR. SHAW: Thank you.

MR. CORDISCO: Thank you very much.

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

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

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

DATED: July 12, 2010

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

----- X

In the Matter of

NAPOLITANO
(2009-10)

Request for a Three-Month Extension of Final Approval

----- X

BOARD BUSINESS

Date: June 17, 2010
Time: 9:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MR. BROWNE: We have one item of Board Business, a discussion on Napolitano, a request for a three-month extension of final subdivision approval which will run from July 1, 2010 to October 1, 2010.

CHAIRMAN EWASUTYN: I'll move for that motion, to grant the three-month extension for Napolitano.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Before we close, our meeting of the first of July has been set. We have three public hearings on AT&T applications and one new

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application.

Karen and Pat, you're welcome to take a vacation July 1st if you'd like.

MR. FOGARTY: At our last meeting we talked about the bushes over in Key Bank and Walgreen's. I don't know what Karen did but she must have contacted the right people because they have been replaced. Good job.

CHAIRMAN EWASUTYN: Thank you. You know what I realized, Karen, at 4:15 in the morning, the real difference between whether Inkberry works or doesn't work, I was at the Hess station on Union Avenue at quarter after 4 in the morning getting gas and that station, I remember when Jerry Bergman came before us, it's irrigated. It makes all the difference. It's what we struggle with here is not the plant material, not the design. It's irrigation without a doubt.

MS. ARENT: He can select plants that need less water. Inkberry's natural habitat is a wetland plant.

CHAIRMAN EWASUTYN: Overall I said it's so lush.

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MS. ARENT: It does make a difference.

CHAIRMAN EWASUTYN: I'll move for a motion that we close the public hearing of the 17th of June.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci, a second by Ken Mennerich. I'll ask for a roll call vote.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 9:16 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: July 12, 2010