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

----- X
In the Matter of

THE MARKETPLACE AT NEWBURGH
(2007-35)

Route 300

Section 60; Block 3; Lots 41.3,41.4,48,49.1 & 49.22

Section 71; Block 4; Lots 8,9,10,11,12,13 & 14

Section 71; Block 5; Lots 9,15& 16

Section 97; Block 1; Lots 13.3 & 20.3

NYS DOT Map 746-Parcel 1142; NYS DOT Map 746-Parcel 1143;

NYS DOT Map 747-Parcel 1144; NYS DOT Map 747-Parcel 1145

IB Zone

----- X

SITE PLAN

Date: June 19, 2008

Time: 7:00 p.m.

Place: Town of Newburgh

Town Hall

1496 Route 300

Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROBERT WILDER

----- X

MICHELLE L. CONERO

10 Westview Drive

Wallkill, New York 12589

(845)895-3018

THE MARKETPLACE AT NEWBURGH

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MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of June 19, 2008.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Court Stenographer.

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

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

MS. ARENT: Karen Arent, Landscape

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Architectural Consultant.

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

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

MR. PROFACI: Please join us in the Pledge.

(Pledge of Allegiance.)

MR. PROFACI: If I need to say it, there's not enough people here, but turn off your cell phones.

MS. HAINES: The first item of business we have tonight is The Marketplace at Newburgh. It is a site plan located on Route 300 in an IB Zone. It's being represented by John Bainlardi.

CHAIRMAN EWASUTYN: John.

MR. BAINLARDI: Good evening. John Bainlardi for the applicant, Wilder Balter Partners. At the last meeting we were asked to go back to a consultants' meeting which we have accomplished. We made changes to the plans in accordance with the consultants last round of consultants' memos and comments. We have provided the submission which implemented all of

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those modifications. If you'd like I guess we could go through briefly those changes or --

CHAIRMAN EWASUTYN: Please.

For the record you are?

MR. GRATZ: My name is Mark Gratz with the firm of Divney, Tung & Schwalbe, site engineers for The Marketplace.

Some of the primary issues that were discussed at the consultants' meeting back in May had to deal with groundwater recharge. There was previously in the Findings Statement the reference to four acres of -- or approximately four acres of pervious pavement that was proposed in the Findings Statement. Subsequent to that we had come up with an alternate design following some calculations to install a groundwater recharge system basically along the, I'll call it the northwesterly edge of the building C parking lot. The total area that we collect into that ground water recharge area basically is approaching five acres, actually picking up a greater acreage than what was previously being collected.

Other questions that we had since

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responded to related to materials of retaining walls. There were colors that were chosen for the retaining walls that were going to be down along the Best Buy area and were -- segmented block retaining walls were shown on the plans.

There was general coordination of the plans. Site signage where we took the approved plans from the ZBA, and those updated plan locations were placed onto the site plan. There were even some slight modifications based on comments from your Traffic Engineer, Creighton Manning, relating to some of the way finding signage locations.

Those were pretty much the major, major changes. I'm trying to recall if there was anything else.

There were questions regarding some detailing in terms of the fencing which was around the detention basins, and that detail has since been added to the plans. I believe Karen Arent is satisfied based on the suggestion from the consultants.

MR. BAINLARDI: Also over the -- as an ongoing process we've been working through the

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site plan resolution. That's picked up quite a bit over the last ten days or so. I believe that we have the resolution in a form which we're hopefully comfortable with. I'll let Mike go through the details of that resolution.

Other than that, I think we're basically ready to respond to any questions the Board may have with the plans at this point and any of the obligations of any potential resolution for final site plan approval.

CHAIRMAN EWASUTYN: Mike.

MR. DONNELLY: Let me first note that in the original SEQRA review we issued Findings and our Findings addressed a number of issues. Among them were the well protocol conditions, the stormwater pollution prevention plan and the groundwater recharge through pervious pavement that Mark Gratz spoke about a moment ago. As other agencies have begun to look at their pieces of approval here, some of those suggested Findings have been called into question and need to be modified.

For instance, under the well protection protocol our finding and mitigation measure was

1
2 that the first line of protection in the event
3 that site blasting caused damage to any adjoining
4 well was that an emergency well be drilled on
5 site in advance of blasting that that home could
6 immediately be connected to. The Health
7 Department, who would be in charge of permitting
8 a well like that as a public water supply, has
9 disapproved the concept and has recommended
10 instead that the first line of protection be
11 provision for on-site potable water trucks to
12 serve water to those residents who might be
13 damaged. Because we had dictated the first
14 mitigation measure in our Findings, we need to
15 amend our Findings.

16 Similarly, because we had discussed and
17 reached mitigation measures regarding pervious
18 pavement, we need to amend our Findings to take
19 into consideration this alternate method to
20 ensure there's adequate groundwater recharge on
21 site. All of the studies have been reviewed by
22 your consultants in that regard.

23 The last piece has to do with the
24 stormwater pollution prevention plan. The DEC
25 recommended some changes there as well.

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So you have before you, before we even get to the resolution, a document that's entitled second amended Findings Statement, and within it it amends the Findings in those three respects that need to be changed. I think your consultants have reviewed it as well as the studies that support it and we're recommending to you that you adopt that amended Findings Statement. You can either do that now or put that off until the end as I discuss the resolution. Whichever is your pleasure.

CHAIRMAN EWASUTYN: I think I'll poll the Board Members as far as if they have any final comments on the second amended Findings Statement and then move for a motion.

Frank Galli?

MR. GALLI: No additional comments.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have no comments.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing additional.

CHAIRMAN EWASUTYN: I'll turn to our consultants at this point. Pat Hines?

MR. HINES: We've reviewed the

1
2 information submitted supporting the modification
3 to the plans changing from pervious pavement to
4 the underground infiltration system. We
5 commented on it and received additional
6 information from the applicant's engineer
7 supporting the design calculations and details
8 that they provided and we find that to be
9 acceptable.

10 The DEC has requested additional phases
11 be implemented in order to issue their greater
12 than five-acre disturbance portion of the SPDES
13 permit for the site and they've increased that
14 number from I think five to seven, which is
15 acceptable to us.

16 The well protection protocol. We've
17 talked with the Health Department and reviewed
18 the well protection protocol and also found that
19 to be acceptable.

20 So we concur with the revised Findings
21 Statement in all three matters.

22 CHAIRMAN EWASUTYN: Bryant Cocks,
23 Planning Consultant?

24 MR. COCKS: We had nothing on the
25 Findings Statement.

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CHAIRMAN EWASUTYN: Karen Arent,
Landscape Architect?
MS. ARENT: No comment on the Findings
Statement.
CHAIRMAN EWASUTYN: Ken Wersted,
Traffic Consultant?
MR. WERSTED: No comments on the
Findings Statement.
CHAIRMAN EWASUTYN: At this point I'll
move for a motion to approve the second amended
Findings Statement for The Marketplace at
Newburgh.
MR. GALLI: So moved.
MR. PROFACI: Second.
CHAIRMAN EWASUTYN: I have a motion by
Frank Galli. I have a second by Joe Profaci.
Any discussion of the motion?
(No response.)
CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Frank Galli.
MR. GALLI: Aye.
MR. MENNERICH: Aye.
MR. PROFACI: Aye.
CHAIRMAN EWASUTYN: And myself aye. So

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carried.

MR. DONNELLY: We had been working on a resolution for final approval for some time now. It is largely based upon the resolution of preliminary site plan approval that dictated a string of conditions that needed to be satisfied before final approval as well as conditions that would be in place on an ongoing basis. We spent nearly an hour-and-a-half in the work session going through that resolution condition by condition, and I don't think anyone wants me to do that again but I will try to highlight some of what we discussed.

First of all, I note that ARB -- conceptual ARB was approved at your May meeting. If you look at the second -- third to last page, 31, it reflects that the vote was taken on May 1st in that regard. The resolution was to be built into this resolution. So if you take action this evening, below the final site plan, I'll paginate this better, will reflect the date of the vote and the action you take on the resolution.

What we have done is to divide the

1
2 resolution conditions into three categories.
3 First, the conditions that need to be satisfied
4 before the plans are signed, and most of those
5 were dictated by the preliminary resolution
6 itself. The next set of conditions are those
7 that need to be satisfied before building permits
8 will be issued. The third category is all of the
9 conditions that remain in force during
10 construction and on an ongoing basis during
11 operation.

12 Starting with the conditions to be
13 satisfied before the plans are signed, we have
14 only one requirement to satisfy the consultants,
15 and that is Bryant Cocks of Garling Associates
16 has given us a memo in which small modifications
17 to the plans need to be made, so you will need a
18 sign-off letter from him before the plans can be
19 signed.

20 There were two documents that are in --
21 that had been prepared, the applicant has copies
22 of them. The first is a utility system access
23 agreement that the Town wishes the applicant to
24 sign. That agreement would authorize the Town's
25 representatives to enter onto the property to

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inspect or to, if necessary, make repairs to the utilities on site like water and sewer that are connected to the Town's system. The applicant has written a letter to the Town Board and asked to be on their agenda for the purpose of executing and delivering that document.

The second is a document that had been prepared earlier that involves a memorandum of understanding as to the work to be done for the roadway relocation in the vicinity of Meadow Hill and Outer Hill. That general vicinity anyway. That document needs to be delivered. The resolution requires that each of those documents be executed and delivered to the Town Board before the site plans are signed.

In terms of other agency approvals, although we've had ongoing dialogue with those agencies and we know those approvals are imminent, they will be required before the site plan is signed, and that is the approvals of the New York State Department of Environmental Conservation, that's both the SPDES permit and a water quality certificate. An approval from the Orange County Department of Health regarding the

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2 water main will also be required before the plans
3 are signed. Three other agency approvals are
4 listed here but we do have memos and letters from
5 each, that is the Town Engineer, the Water
6 Department and the City of Newburgh flow
7 allocation acceptance letter. All of those
8 approvals have been received.

9 Various forms of financial security
10 will need to be posted before the plans are
11 signed. They include landscape security,
12 stormwater management security, water main, sewer
13 main and Town road security.

14 In addition, there is certain lands to
15 be offered for dedication to the Town, and those
16 offers of dedication will have to be delivered to
17 the Town before the plans are signed.

18 There's one additional document that
19 has been prepared, I believe the applicant has a
20 copy and it's also mentioned in the letter that
21 they need to appear before the Town Board, and
22 that is a document called a simplified Town owner
23 pact agreement. What that does is now that there
24 has been a subdivision permitted or approved, the
25 applicant is -- it's conceivable the applicant

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will sell parcels to other owners. The Town wants to make sure that the developer will remain responsible for all of the conditions of the site plan approval, all of the mitigation measures of the Findings Statement as well as compliance with all of the provisions of the Code of Ordinances of the Town of Newburgh. That entity, presently the developer, will have to answer and be responsible for seeing to compliance with all of those conditions. That document will have to be delivered to the Town Board.

Those are the conditions that I've just listed that need to be satisfied before the site plan can be signed.

The next group of conditions are those conditions that need to be satisfied before building permits can be issued. They include proof of conveyance of certain DOT lands by the New York State Department of Transportation to the applicant, the Army Corp permit, the delivery of a document which is before you this evening but which is primarily for the Town Board's review, and that is the document referred to in the Findings as a developer's undertaking. In

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2 the document, and the resolution sets forth the
3 requirements for that document, the applicant has
4 to certify that they will perform all of the
5 mitigation measures required within the Findings
6 Statement. In recent days as we had discussed
7 the resolution, I have been having ongoing
8 dialogue with Mark Taylor, the Town Attorney,
9 about the conditions of that undertaking. I
10 think from our discussions earlier, in general
11 outline it does indeed satisfy all of the
12 requirements that we impose that need to be
13 included within it based upon the Findings
14 Statement. There are no doubt additional details
15 and language changes that need to be made to
16 satisfy the Town Attorney and the Town Board.
17 Again, that document can be discussed with the
18 Town Board. I think with most of the changes
19 that have been made it is probably nearly in
20 final form and I believe satisfactory for your
21 purposes, and I recommend that you consider it as
22 such.

23 We highlight the importance of the
24 groundwater protection protocol as something that
25 needs to be in place again before building

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2 permits are issued. Significantly, and that's
3 discussed at length within the Findings and much
4 of that is carried forth here into the
5 resolution, the applicants needs, before any
6 blasting begins on site, to make sure that this
7 well protocol is in place. It involves a
8 dialogue with the Town Board about the notice to
9 adjoining property owners, and what their rights
10 are, and how they can participate in the
11 protection program.

12 One change that was made during our
13 discussion earlier this evening that was not
14 specified in the Findings, and that is the
15 duration of the well monitoring that will be
16 carried out during the blasting phase. Pat Hines
17 has recommended, based upon a discussion with the
18 Health Department, that the well monitoring shall
19 extend for a period of not less than three months
20 after blasting has concluded. The resolution as
21 written had limited it to three months after
22 blasting had concluded within 500 feet of the
23 wells that were covered by the protocol. Based
24 upon Pat's recommendation that language will now
25 be changed to requiring the well monitoring to

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2 extend for a period of not less than three months
3 after all blasting has concluded. There are
4 certainly many other requirements of that
5 protocol, they are built into the undertaking as
6 well, and that protocol in whatever form the Town
7 Board deems appropriate will need to be delivered
8 before building permits are issued.

9 Next, the building permits for the
10 lifestyle center will not be issued until the
11 first building permit within the lifestyle center
12 is sought. The applicant has appeared before the
13 Board and presented architectural plans for the
14 public architectural features, the bandstand, the
15 flag pole, I think there's benches in that area
16 based upon Karen's report earlier this evening as
17 well as all the publicly landscaped areas within
18 the lifestyle center. You discussed this at the
19 last several meetings and the idea is the
20 lifestyle center is a concept that has concept
21 architecture and a general layout, but exactly
22 how to place the flag pole and those amenities
23 can best be handled in the recommendation of
24 Karen at the time that we have the first concrete
25 building permit before you. So those details

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will need to be finalized at that time.

With the exception of the last one, all of those other conditions have to be satisfied before any building permits are issued. The last one we discussed before the last building permit within the lifestyle center.

The remaining conditions of the resolution all relate to ongoing compliance during the construction phase and thereafter during the operational phase. They relate to incorporation of all of the mitigation measures of the E.I.S. and the Findings Statement, compliance with all the items, with the terms of any permits to be issued by the Town of Newburgh Code Compliance Department including blasting permits, demolition permits and a flood plane development permit.

Importantly, in condition 26 a requirement that the ten-foot high sound barrier fencing be installed according to the phasing plan. The purpose of it is to ensure that that sound protection is in place before the blasting that is designed to protect the neighbors from having -- from receiving too great an impact

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begins.

We have a number of requirements regarding how ARB has been approved on a conceptual basis and must be incorporated into the individual building plans. There are three or four pieces, I'm not going to review them all.

Under other agency approvals, we want to ensure that the permits issued by other agencies, including the Department of Transportation and the Zoning Board of Appeals, are enforced as conditions of this resolution as if they were included within it, so there must be compliance with those permits.

The round about must be installed and if it -- if the entrance that comes from that round about is not in place, the developer may not exceed 700,000 square feet of retail space until it is in place.

There's a requirement that the signs that are shown on the plans, although they have received your approval or they will as part of this resolution as well as a variance from the Zoning Board of Appeals, will also need to have permits issued by the Code Compliance Department,

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and we've added language that allows them to receive the advice from the Town's designated Landscape Architect who is familiar with the plans to ensure that they are the same ones that were presented to the various boards.

We talked about illumination, signs, landscape maintenance, parking lot maintenance.

The applicant, in condition number 39 on page 23, has delivered a petition under Section 1660-a of the Vehicle and Traffic Law that allows the Town to enforce vehicle and traffic provisions on the property of the mall.

In terms of traffic, we state in condition 40 that all of the traffic improvements, both on site and off, must be completed, and that is a condition of this final approval.

We talk in condition 41 about the applicant's contribution toward expediting the needed improvements to Route 52 and 32, that intersection within the Town. As we had discussed during the SEQRA stage, the Town has long known that that intersection is in a failing condition or a compromised condition. We have

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2 been asking a number of developers to contribute
3 a sum toward the cost of the improvement. What we
4 asked this applicant to do was to give the Town
5 money that it could utilize to conduct a study
6 and to prepare design plans, and we felt with
7 those -- with that study and those design plans
8 the Town would be in a better position to go to
9 the DOT and urge that the DOT make the needed
10 traffic improvements, and that with the
11 contribution of other developers and, I'll come
12 to that in a moment, a cash contribution from
13 this developer, the Town might be in a position
14 to contribute it's local share towards those
15 improvements and thereby raise up the priority of
16 those needed improvements on the DOT's list. What
17 the resolution calls for is what the Findings
18 said, and that is that the applicant will pay
19 \$50,000 toward the Town to be utilized for the
20 purpose of that study and those design drawings,
21 and the balance left over to go into the money
22 that the Town has collected from other developers
23 to be used for the local share cost of those
24 improvements. The language of that condition
25 carries forth the condition -- the intent of the

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Findings Statement in that regard.

In addition, in condition 42 the applicant will give the sum of \$30,000 to the Town for a follow-up traffic study. The idea here is that at some level of occupancy, not the first door opening, the level of occupancy is reflected in here, a follow-up study will be done by the Town's traffic consultant and any needed adjustments or tweaks to the traffic plan, or light timing, or lane designations can be done in the event that the actual traffic patterns do not match the assumptions and projections of the traffic study.

Provision 43 or condition 43 is the requirement that the applicant formulate what will be a work in process idea, and that is an emergency traffic management plan. In the event that during significantly busy shopping days there is traffic that cannot be handled by the existing roadway system or traffic lights, and that may never happen and hopefully it will not, we need to have a plan in place that will allow an emergency handling of that situation, whether it's the use of police officers or security

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2 guards, to route traffic within the site in a
3 different way needs to be developed. What we've
4 asked the applicant to do is prepare an initial
5 draft of that plan. They have done so. They
6 have shown it to the emergency services
7 organizations of the Town. As we discussed at
8 the work session and as Ken pointed out, in all
9 likelihood a meaningful plan will be one that
10 reacts to the problem if it occurs. The intent
11 of the condition is that on an ongoing basis the
12 applicant will pledge to work with the Town and
13 it's emergency services in order to plan and
14 tweak the emergency management plan so that we're
15 able to handle those extraordinary events if, as
16 and when they occur.

17 In condition 44, as we said in the
18 Findings we talk about certain parameters for
19 amendments to the plans specifying which would
20 require additional amended site plan approval and
21 which would not.

22 In condition 46 we talk about the
23 requirement that the applicant can not build just
24 a big box shopping mall, that essential to what
25 the Planning Board approved was a mall that

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included the lifestyle center. The condition requires that the developer can build no more than 450,000 square feet of non lifestyle center space until he has built at least 100,000 square feet of the lifestyle center space, and until that much lifestyle center space has been built the mall can not be fully built out.

We've included in conditions 48 and 49 our usual conditions regarding limitations upon outdoor storage and display of merchandise for any of the stores that may intend to carry that out.

Condition 50 is your standard condition which states that no structures, amenities or utilities not shown on the plan can be built on site without an amended approval from the Board.

The final numbered condition is the requirement under the Code that a flood plane development permit be issued by the Code Compliance Supervisor.

In the general conditions we have the standard conditions regarding the payment of financial security and other fees, the durational provision of the site plan approval, as I

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mentioned earlier the recitation of the conceptual ARB approval on May 1st. Hand in hand with this of course is the requirement of the undertaking and those other documents I referred to be finalized with the Town Board.

All of the consultants have had input into the resolution as has Mark Taylor, the Town Attorney, and some of the other Town departments. We believe it correctly carries forth the requirements of the preliminary resolution as well as the SEQRA Findings Statement. We think the division of the conditions into chronological categories of when they need to be satisfied will be helpful for the Code Compliance Department, the issuance of permits and certificates of occupancy, and will also provide an appropriate road map for the Town in finalizing the developer's undertaking.

We recommend that, unless you have changes to be made to it, that it's ready for action.

CHAIRMAN EWASUTYN: John, before I turn to the Planning Board Members for their comments I'll turn the table over to you. Any comments at

1
2 this point?
3 MR. BAINLARDI: No. No comments at
4 this time.
5 CHAIRMAN EWASUTYN: Okay. Frank Galli?
6 MR. GALLI: No additional comments.
7 Everything was covered.
8 CHAIRMAN EWASUTYN: Ken Mennerich?
9 MR. MENNERICH: I have no additional
10 questions.
11 CHAIRMAN EWASUTYN: Joe Profaci?
12 MR. PROFACI: I'm satisfied.
13 CHAIRMAN EWASUTYN: Consultants. Pat
14 Hines?
15 MR. HINES: I have nothing else to add.
16 All my changes and modifications have been
17 included.
18 CHAIRMAN EWASUTYN: Bryant Cocks,
19 Planning Consultant?
20 MR. COCKS: The only other change we're
21 requesting is note 25 on the cover sheet
22 regarding the sound wall. You could just change
23 that to -- it's condition 26 in the approval. It
24 should just state the 900 feet being done in
25 phase B instead of just a general reference to

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SP-6. If you could just put that exact language. That was the only thing we had.

MR. DONNELLY: That's in your memo?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: Thank you. Karen Arent?

MS. ARENT: I have a minor change to the sound barrier wall phasing plan. It says underneath phase III describing a sound barrier wall and in parenthesis phase I which I thought was confusing. They're going to write phase I of the sound barrier fencing installation.

My other change regarding the landscaping is incorporated into the resolution.

MR. DONNELLY: We want then to add a resolution condition that requires a sign-off letter from Karen.

MS. ARENT: Bryant can just double check that one.

CHAIRMAN EWASUTYN: Why don't we keep it in harmony with what we started the opening with, with a sign off from Bryant. That will be -- we'll just add that as far as keeping that same thread. I think he started out with

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specific conditions, and we'll list that as a specific condition.

MR. DONNELLY: Very good. We'll renumber them all one more time.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: No comments on the resolution.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to move for the final conditional approval for the site plan and ARB for Wilder Balter Partners, Inc. and WB Interchange Associates, L.L.C. for The Marketplace.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

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MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

Thank you. Congratulations.

MR. BAINLARDI: Thank you very much.

MR. DONNELLY: May I just note on the record one issue? When we were talking about the developer's undertaking earlier, we received a report from Jerry Canfield to the effect that the fire and police had met and they were not inclined to want to utilize the preemption devices that had been discussed as an aid in getting emergency vehicles into and around the area of the site. Rather than change anything in the resolution for the Findings, it's my recommendation, and we discussed it earlier, that I convey that report to Mark Taylor, the Town Attorney, and to the Town Board and that Ken Wersted follow up with his recommendations. I think in the developer's undertaking or other discussions with the Town Board the Town can decide whether to reject them, accept them even though they won't be used, or perhaps come up with some other item of discussion. I don't

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believe that there's any reason why we should
amend the plans or the Findings Statement or
backtrack on what we thought was a helpful issue.
If the emergency services organizations are not
interested in it they can always waive the
benefit of it. We'll leave that to the Town
Board.

CHAIRMAN EWASUTYN: Okay. Thank you.

(Time noted: 7:36 p.m.)

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

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

DATED: June 27, 2008

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

----- X

In the Matter of

TURNER SUBDIVISION

Fox Hill Road
Section 3; Block 1; Lot 3.22
R-1 Zone

----- X

CONCEPTUAL SITE PLAN
TWO-LOT SUBDIVISION

Date: June 19, 2008
Time: 7:36 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

MICHELLE L. CONERO
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Wallkill, New York 12589
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MS. HAINES: The last item of business we have tonight is the Turner subdivision. It's a conceptual site plan for a two-lot subdivision. It's located on Fox Hill Road in an R-1 Zone and it's being represented by Jim Raab.

MR. RAAB: This is a five-acre parcel located almost near the northerly end of Fox Hill Road. Mr. Turner wishes to subdivide off three acres and put a duplex on the back section that will be served by an individual well and septic system.

Due to the slopes that are involved here, we've implemented a shallow trench Elgin system that will take up very little space as far as the slopes are concerned.

As Darren has shown on his plans, we want to limit the amount of disturbance here as little as possible because of the fact that we're not on a flat surface type of thing. That's one of the reasons why the footprint of the building is so small is they went for a second story flat over flat type of thing versus a side by side type, mainly because of the topography that the house will be situated in.

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That's pretty much it.

CHAIRMAN EWASUTYN: We had some comments from our consultants. I'll start with Pat Hines.

MR. HINES: Our first comment just notes that it's before the Board for subdivision and site plan because of the proposed duplex on lot 2.

I noted that the size of the proposed two-family house looks very small compared to the houses on this lot and the adjoining lots. I just want to make sure they meet the Code for the requirements based on bedrooms and the two-family. I didn't check the square footage. It just looks -- this house is dwarfed by the other houses in the area.

MR. RAAB: Considering you have one of the largest ranches in Newburgh.

MR. HINES: That one is very large. We're asking that the applicant evaluate drainage towards Fox Hill Road. The proposed driveway is at 14 or 15 percent straight down. I think there's going to be a need for some drainage improvements there to keep that from discharging

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to Fox Hill Road.

There needs to be a 2 percent negative grade coming in off of Fox Hill Road and into the driveway. That should be shown. A driveway culvert should be shown. There may be the requirement to put some culverts up the driveway to put water into a closed pipe system before it hits the Town road. We need a drainage evaluation.

We're requesting the separation distance between the proposed well and existing septic system on the parent lot be depicted because they're at minimum separation distance.

The highway superintendent's comments should be received.

The topography along Fox Hill Road shown there doesn't look to be --

MR. RAAB: We shot it. This was the Orange County Water Authority overlay. We shot the center line of Fox Hill Road and tied them in. We already changed that.

MR. HINES: That's consistent with the septic area, too?

MR. RAAB: The same thing as the septic

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area, too.

MR. HINES: You redid that topo?

MR. RAAB: Yeah.

MR. HINES: All right. You saw my comment that it was -- it couldn't possibly be there.

Modification to the septic details. A 2,000 gallon septic tank is shown in the design but a detail for a 1,250 is shown. That needs to be cleaned up.

That's all I have.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Just in the E.A.F. it stated there were no threatened or endangered species. You have to cite that DEC website.

Pat mentioned the sight distance on the new driveway location on Fox Hill.

We were just asking if there's any wells or septics on the adjacent parcel to the north just because the separation distances. We couldn't see if there's anything that was going to be close.

We're questioning what was going on with the stonewall. Are you guys taking that

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down or are you leaving that?

MR. RAAB: Talking about the stonewall in between?

MR. COCKS: Yes.

MR. RAAB: I can ask Mr. Turner that. I really don't know. I would think that they would want to probably leave as much as we could. Since you have a septic on one side and the house on the other, a good portion of that stonewall is probably going to get removed. It's not visible to anybody anyway. It's not like it's a stonewall anybody is going to see. I would imagine most of it is going to be removed.

MR. COCKS: We were going to ask if you could put it somewhere else on the site instead of wasting it.

MR. RAAB: All right.

MR. COCKS: In the front, on the side property line maybe.

MR. RAAB: We have a stonewall along the side property line.

MR. COCKS: There already is one?

MR. RAAB: One here, one here, one here. We have plenty of stonewalls.

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2 MR. COCKS: All right.
3 MR. RAAB: I'm first on walls but I
4 don't know where I'm going to put one here.
5 Maybe some retaining walls around the house.
6 That's probably where most of that stone is going
7 to go. Because the topography we have here,
8 they'll probably use most of that stone around
9 the house.
10 MR. COCKS: That's fine. Pat discussed
11 the slope of the driveway.
12 We're going to need to see
13 architectural plans for this since it's a duplex.
14 That was it.
15 CHAIRMAN EWASUTYN: Comments from Board
16 Members. Frank Galli?
17 MR. GALLI: No additional.
18 CHAIRMAN EWASUTYN: Ken Mennerich?
19 MR. MENNERICH: No questions.
20 CHAIRMAN EWASUTYN: Joe Profaci?
21 MR. PROFACI: No.
22 CHAIRMAN EWASUTYN: We discussed this
23 at work session, Jim, and it's not shown there.
24 If you would provide a driveway detail.
25 MR. RAAB: Sure. That goes along with

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what Pat was asking for.

MR. HINES: Even at work session we discussed whether the driveway at 15 percent should be paved and shown to be paved.

MR. RAAB: You mean more than 15?

MR. HINES: It's pretty much 15 percent for -- the whole driveway is 15 percent.

MR. RAAB: The condition is the driveway should be paved?

MR. HINES: Yeah. I think you should take a look at that. It may help your drainage along there.

MR. RAAB: I think so.

CHAIRMAN EWASUTYN: I'll move for a motion to grant conceptual site plan approval for the Turner subdivision --

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: -- and site plan.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

TURNER SUBDIVISION

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roll call vote starting with Frank Galli.
MR. GALLI: Aye.
MR. MENNERICH: Aye.
MR. PROFACI: Aye.
CHAIRMAN EWASUTYN: Myself yes. So
carried.
MR. RAAB: Thank you very much.
Does this have to go to Orange County?
MR. DONNELLY: Health Department or
Planning?
MR. RAAB: Planning.
MR. DONNELLY: I don't think so.

(Time noted: 7:44 p.m.)

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

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DATED: June 27, 2008

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

----- X

In the Matter of

BC&N CARPET

Request to rent out 4,000 square feet of
showroom and warehouse space

----- X

BOARD BUSINESS

Date: June 19, 2008
Time: 7:44 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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MS. HAINES: The first item we have on Board business tonight is for BC&N Carpet. We got a letter from Brian McCutcheon dated June 12, 2008. He's requesting that the Planning Board consider allowing him to rent out 4,000 square feet of his building to a cabinet and countertop dealer. It will require moving three of the shrubs in front of the building. He wants you guys to consider allowing him to do that.

CHAIRMAN EWASUTYN: Mike, are there any conditions --

MR. DONNELLY: The resolution originally identified the use as a carpet and flooring showroom with accessory office and warehouse space. If we're now shifting the amount of office use are we going to have an issue where the parking requirements are met? I think someone would need to make that calculation.

MR. COCKS: I'll check.

CHAIRMAN EWASUTYN: Bryant can report back to us at the next meeting. Is that what we want to do, Mike?

MR. DONNELLY: That's the issue that comes to mind for me. The rest is whether or not

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2 it subtracts from the site. I don't think it's a
3 site plan so much as ARB because they have to put
4 doors into the building and a walk to it. I
5 don't think the three shrubs are the issue, I
6 think it's an ARB issue with the new doors being
7 put in.

8 MR. GALLI: If you look at the front of
9 the building, I think he's going to take off one
10 section of windows there and probably cut it down
11 and put a door in.

12 MS. ARENT: It's very simple.

13 MR. GALLI: Like Mike said, if they're
14 going to do any manufacturing as far as cutting,
15 putting together --

16 MR. DONNELLY: I think the parking
17 requirements, I'm guessing, are higher for
18 office. If we're increasing the amount of the
19 building that's dedicated to the office use, is
20 the parking going to be adequate.

21 MR. GALLI: Probably more warehouse use
22 I would think.

23 MR. DONNELLY: But warehouse is a
24 fairly low parking requirement is my memory, and
25 office is a fairly high one. If they're changing

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that balance we need to know.

MR. GALLI: I don't think he's going to have office.

MR. COCKS: It looks like the same use anyway.

CHAIRMAN EWASUTYN: Bryant, could you make it a point in speaking with Dina tomorrow and -- actually, I think it's on his letterhead probably, his phone number.

MR. COCKS: Yeah.

CHAIRMAN EWASUTYN: Make it a point of contacting him and --

MR. COCKS: I mean it looks like the same kind of use. If it's a cabinet and countertop dealer, it's going to be the same showroom with the office in the back.

CHAIRMAN EWASUTYN: Karen, do you want to see any drawings?

MS. ARENT: I don't think it's necessary. I think it's so simple. He has been keeping up the place very nicely.

The other thing to consider would be signage. Will this new use need a new sign and will that be in conformance with the regulations.

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2 CHAIRMAN EWASUTYN: Why don't you make
3 it a point in speaking with Bryant tomorrow and
4 then you can put your thoughts together. Bryant
5 will contact Brian and we'll adjourn this until
6 our meeting of June --
7 MS. HAINES: July 3rd.
8 CHAIRMAN EWASUTYN: -- July 3rd.
9 MR. MENNERICH: Bryant, do you know
10 what percentage of the building this 4,000 square
11 feet represents?
12 MR. COCKS: I don't know off the top of
13 my head.
14 MS. ARENT: I have the plans if you
15 want me to open them.
16 MR. MENNERICH: I was just wondering if
17 it's fifty/fifty or if it's just a small portion
18 of the building. It doesn't have to be looked at
19 right now.
20 MS. ARENT: The original building was
21 11,000 square feet. It's a little more than one-
22 third.
23 MR. MENNERICH: I'm sorry?
24 MS. ARENT: The original building was
25 11,000 square feet. It's a little bit more than

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one-third.

(Time noted: 7:50 p.m.)

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

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DATED: June 27, 2008

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

----- X

In the Matter of

MOUNTAIN VIEW SUBDIVISION
(2008-04)

Public hearing date rescheduled
from 7/17/08 to 7/3/08

----- X

BOARD BUSINESS

Date: June 19, 2008
Time: 7:50 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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MOUNTAIN VIEW SUBDIVISION

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MS. HAINES: The last thing we have is Mountain View Subdivision. At the last meeting we set them up for July 17th for a public hearing but we decided to change it to July 3rd instead. We moved them up. They were fine with it.

CHAIRMAN EWASUTYN: I'll move for a motion to amend the original motion for a July 17th public hearing and now set it for July 3rd.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

All right then. Anything else anyone has to report on?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

MOUNTAIN VIEW SUBDIVISION

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motion to close the Planning Board meeting of
June 19th.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 7:52 p.m.)

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

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DATED: June 27, 2008

