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

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In the Matter of

GATEWAY COMMONS  
(2008-29)

NYS Route 17K and Skyers Lane  
Section 89; Block 1; Lot 85.22  
B Zone

----- X

DRAFT SCOPING OUTLINE, SITE PLAN,  
COMMERCIAL THREE-LOT SUBDIVISION

Date: July 16, 2009  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO

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

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GATEWAY COMMONS

MR. BROWNE: Welcome to the Town of Newburgh Planning Board meeting of July 16, 2009. At this time I'll call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

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 ask that they introduce themselves.

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, Hauser & Edsall, Consulting Engineers.

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GATEWAY COMMONS

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

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

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

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

MR. PROFACI: Please join us.

(Pledge of Allegiance.)

MR. PROFACI: If you have cell phones,  
please turn them off. Thank you.

MR. BROWNE: The first item on this  
evening's agenda, and the only item, is the  
Gateway Commons draft scoping outline, site plan.  
It's being represented by Tim Miller Associates.

Who's taking the lead? Your name?

MR. CAPPELLO: John Cappello  
representing Tim Miller Associates.

CHAIRMAN EWASUTYN: At this point I'll  
turn to Mike Donnelly, Planning Board Attorney,  
for the public, to give the meaning and purpose  
of a scoping document.

MR. DONNELLY: Good evening, everyone.

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GATEWAY COMMONS

I'm going to try to give an outline of what tonight's hearing is about and try to give you a little more of a timeline even beyond this evening. This is a very early staged presentation for a piece of land along 17K. You're going to hear a little bit more detail about what it is. Much of what is presented is in a conceptual stage. It is illustrative of uses that may be proposed for the site, and that's an advantage to everyone in the Town, that we don't simply address each little piece of the development as it occurs. It's helpful that we see an overall plan so that we can plan and take into account all of the impacts of an environmental nature that may come from the project. So I think that's a good and laudable approach for the applicant to have taken.

Many agencies, governmental agencies, have to review and approve parts of this project before it can move forward. When that happens -- just to give you an idea, there's a proposal to change portions of the zoning law. That would go to the Town Board. There may be a need for variances, and that would go to the Zoning Board.



1 November of last year. The applicant has  
2 proposed an initial scoping outline. It's a  
3 table of contents document. I'm sure some of you  
4 have seen it. It was available on the website  
5 but it will be gone over, at least in broad  
6 strokes, this evening. And then the Planning  
7 Board and its consultants looked at it, altered  
8 it, added things to it. The Board met last month  
9 to go over it, and the version that is the most  
10 current one is the one that we will work from  
11 this evening. When we're done with the scoping  
12 proceedings, the relevant concerns that come out  
13 of this evening's meeting will go into the  
14 scoping outline that will then be given to the  
15 applicant. The applicant will have to prepare a  
16 document called a Draft Environmental Impact  
17 Statement. What that means is that the table of  
18 contents is used as a guide. The applicant will  
19 have to perform a study and provide information  
20 on each of the items in that scoping outline.  
21 When that task is completed they'll deliver a  
22 Draft Environmental Impact Statement to the  
23 Planning Board. The Planning Board looks at that  
24 document in order to determine whether it is  
25

1 complete and adequate for the purpose of  
2 beginning the environmental review process, not  
3 that it is complete and accurate to the ultimate  
4 satisfaction. That will come later. When that  
5 happens the Board will schedule another public  
6 hearing. You would have the opportunity before  
7 that hearing to review the contents of that  
8 impact statement. Typically it would be made  
9 available on the internet, it would be available  
10 in the town hall, usually I think at the library  
11 or some other locations in the Town for you to  
12 look at. Then the public would be heard from on  
13 the content of that statement. Further down the  
14 road we would have a document called a Final  
15 Environmental Impact Statement that would tie up  
16 the loose ends that were determined by the Board  
17 after hearing from the public and the other  
18 agencies that were missing in the Draft  
19 Environmental Impact Statement. Those two  
20 documents together constitute the Environmental  
21 Impact Statement, the environmental study of the  
22 potential impacts of the project.

24 From there then each of the agencies  
25 that have jurisdiction over the project are

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permitted to issue what are called SEQRA findings. SEQRA is the abbreviation for the State Environmental Quality Review Act. In those findings the agencies could dictate what changes need to be made to the plans or to the project that would bring it into a form that that particular agency could consider for approval purposes.

What we're going to do this evening is ask the applicant to describe the proposal, to run through the outline of the scoping outline. I don't mean to stand here and read it to everyone present because it's a somewhat lengthy document, but at least talk a little bit about the broad stroke subjects that need to be addressed. And then the Chairman will call on the public to address the Board. I'm sure many of you have opinions about the project. Whether you feel it's good or bad are opinions you're of course entitled to. Many of you I'm sure live in the area and it's appropriate and genuine that you bring those concerns forward. What would be most helpful for the Board tonight is that you tell the Board not so much what you think of the



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project but what you think are issues that need to be studied in order that the Board and the other agencies that have authority can really understand what impacts this project may bring to the environment, because that really is the focus of the first part of the governmental review process of a land use application like this. So if you could tell us your concerns that you think should be addressed, whether they're traffic, drainage, visual, and many of these things are already in the scoping outline, but if you see a piece that's missing or an angle that isn't there, it would be helpful to tell us what issues you think need to be addressed. Of course if somebody else has already raised the issue, it's not really important to the Board how many people share that concern. What the Board is trying to do is make sure it understands all of the genuine concerns that need to be addressed in that Environmental Impact Statement.

CHAIRMAN EWASUTYN: Thank you. At this time I'll turn to Ken Mennerich to read the notice of hearing.

MR. MENNERICH: "Notice of hearing,

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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, Section 185-57 K, on the application of Gateway Commons for a scoping session on the contents of the Draft Environmental Impact Statement, D.E.I.S., on premises New York State Route 17K and Skyers Lane in the Town of Newburgh, designated on Town tax map as Section 89; Block 1; Lot 25.22. Said hearing will be held on the 16th day of July 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. The draft scope for the D.E.I.S. will be posted at [www.timmillerassociates.com/publicreview/gatewaycommons](http://www.timmillerassociates.com/publicreview/gatewaycommons). By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated June 15, 2009."

MR. GALLI: The public notification of publication was in the papers. There were sixty-nine letters sent out, sixty-three were

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GATEWAY COMMONS

returned. Everything was in order.

CHAIRMAN EWASUTYN: Thank you. At this time I'll ask John Cappello to come forward to introduce the project.

John.

MR. CAPPELLO: Good evening everyone, and thank you for your time. My name is John Cappello, Attorney with Jacobowitz & Gubits. I'm here to briefly present the plan and to tell you what we're here for tonight, to reiterate a lot of what Mr. Donnelly so ably already stated, and then I will turn it over to John Kerekes. John is the person who prepared -- the architect who prepared the plan, who will tell you about the concepts that were utilized in preparing the concept plan here, and then we will turn it over to Fred Wells from Tim Miller Associates. Fred's office has prepared the actual scoping outline and will take the lead in preparing the Draft Environmental Impact Statement that the Board will be reviewing, and he will briefly outline the issues we've identified and work with the Planning Board to identify what we intend to study as we go forward for this project.

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As has been stated, tonight's purpose really is not to answer questions. We don't have the answers. We're looking to you and to the Board to find out the questions. So what we want to present is our vision of what we've actually applied for so everyone is working off the same set of facts, and then hear the types of issues you would like us to see so we can work towards an appropriate project as over the years this parcel is developed.

I heard some talk outside, you know, why now in this economy, you know, with what we're doing are you planning. My answer to that is most of the people that are having problems now are the people who started when the market was high, planned, and by the time they had their approvals the market was gone. The time to plan is when there's not the pressure for development. It's the time when you can look at a piece of property, look at your opportunities to set a vision, a course for development so when the market does return and people do come, they know what's expected of them, they know the standards they have to meet, and hopefully we can come to

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an accomodation to allow this property to be appropriately and profitably developed while addressing to the extent -- you know, the maximum extent practical the concerns of the neighborhood.

What is the application before the Planning Board right now? Really it's only for a three-lot subdivision to create a lot 1 which will have a site plan application for a 69,000 square foot grocery store; a second lot along what would be the access road; and the third lot for the remainder of the property. That's what we are applying for at this time.

As Mr. Donnelly stated, in order to appropriately address SEQRA you have to look at the cumulative impacts and the potential development for this site. That's what the purple and the blue and the orange is. We don't have an application before this Board to say we're going to build three hotels, we think this is the type of use that this property may be able to accommodate. We are going to examine the development potential for those types of uses for this parcel. In the future could a different use

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GATEWAY COMMONS

come along? Yes. What we would hope to do is set the site specific parameters for the retail portion and then set the development standards as we move forward so as future developers and future actual users come in before the Board for site plan approval, this Board will have a document that can say well here's our vision, here's the parameters we set for the development of this, how does this actual site specific development meet those parameters, how does it comply, what's different, what has happened, so it will give a template as we move forward, as Mr. Donnelly said, instead of a haphazard piecemeal development, toward a unified project.

Now, since most of you I've seen before at other neighbors meetings I did, I'm assuming everyone knows the property is located on Route 17K -- on the south side of 17K near the intersection with Racquet Road, moving west towards the intersection with I-84. The parcel itself is 84.4 acres. What we propose and what we'll be talking about are the items that we will study going forward.

In reality all that we're proposing now

1 is a 69,000 square foot grocery store, a  
2 potential retail up front that John will explain  
3 a little more, and the vision for how this  
4 property would be developed, the road pattern,  
5 the gathering points, the landscaping, the areas  
6 to be preserved, the areas that can be developed,  
7 the types of uses that can be accommodated on  
8 this parcel, and the transition from the higher  
9 impact areas near the 84 intersection toward the  
10 lower impact uses towards the existing Colden  
11 residential area.  
12

13 With that I will introduce John  
14 Kerekes. John, as I said, is an architect. John  
15 has presented before the public at our first  
16 meeting, has taken your comments and prepared the  
17 actual design, and he will explain his vision for  
18 the project.

19 MR. KEREKES: Thank you very much,  
20 John.

21 Mr. Chairman, Members of the Board,  
22 distinguished Consultants and Members of the  
23 Public, the last time we were before the Planning  
24 Board I just explained our conservation approach  
25 to the subdivision. I'm going to do it very

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briefly for the benefit of the public because they weren't here. One of the ways that I approach the design of a project, especially one such as this one, is I take this four-step approach. Part one has three parts to it -- subparts to it. I try to identify what I consider the primary conservation areas, things such as wetlands, steep slopes, flood plains, those types of things. The second part to part one is identify secondary conservation areas, meadows, uplands, woods, those areas where there may be stone fences. What happens is that on this 84 acres what you still see as part of the aerial which comes through the drawing portion, the rendered portion, is approximately 33 acres. So it's -- you know, it's 30 to 33 acres so it's a little bit more than about a third of the site I have not touched, and I'm not going to touch. The last part of that is to identify what the area of potential development will be. Part two is I try to locate certain buildings on the site. Part three is to locate the roads and the access points to them. Some sites have you do the buildings first and then the roads. In this



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particular one I did it the other way. I located a main spine through the site on the developable area to the east of the wetlands, and then I identified these pockets that were to the west of the wetlands. That's how we came up with the subdivision lines for this particular plan.

As we looked at where we put the road and the types of uses, there's a concept, and the words been thrown around, called smart growth. There's probably a bunch of other buzz words used. I'm just going to try to -- I'm just going to use that one but to try to give some of the ideals of what smart growth is. First of all, smart growth doesn't mean no growth, it just means growth and development in a very reasonable, practicable pattern. Smart growth, what it tries to do is it tries to -- it encourages multiple uses. What it tries not to do is tries not to have developments that are only one use, i.e. retail. So when the retail segment dries up, an entire retail project goes away or gets delayed. I think that may be The Market Place. There's a bunch of others, too. There are -- there's -- so you have retail as in

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the red, food services in the orange, the hospitality in the blue, and office in the purple with entertainment as being part of hospitality which are some of the smaller uses in the back.

The next thing that the site concept tries to encourage is it tries to locate things near transportation nodes. Nodes are like intersections. So for instance this is not five miles in from the intersection of 17K and I-84. It tries to get it as close to that transportation node because there's an -- especially with an interstate which has a very intense use, and also 17K being a State road which, you know, you can look at this as a primary road, this as a secondary road, and its interior spine being the tertiary road.

Another concept that is encouraged by the smart growth is the density of buildings, okay. In other words, what you try not to do is you try not to make a lot of single things and use up a lot of footprint. We want to try to leave as much green. If for instance the zoning ordinance allows for three stories or forty feet, well I could either do a 60,000 square foot

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building, one story 60,000 feet touching the ground, or I can do a three-story building only using up 20,000 so it's 20 per floor. What happens there is I'm not impacting as much of the ground underneath so I'm able to provide more green area, more detention, more recharge, more public space.

Another concept in that, if we're trying to conserve the land by going up, we're also looking to do shared parking. We try to get in this multiple use idea instead of single use. There are certain things, for instance, like an office building people work from 8 to 5, and you work during Monday through Friday, and some of us not so much on the weekends I hope. But restaurants tend to be busier at night and on the weekends. So hence, you try to put a casual sit-down area near the office buildings because when people aren't at work that parking space can be used by others, the vacant spaces not being used by the office. So you're able to not use as much land for all that parking. So what you're doing is you're turning over the same spot a number of times for different uses. The same thing occurs

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with hotels. In the retail section, that's really a 24/7 type thing. Not so much 24 but it's a 7 day a week. What we try to do there is we try to cluster everything around, so theoretically instead of parking close to a front door, if you park somewhere near the middle of it you can get to any one point almost equally distant.

Another encouragement is trying to get compatible uses that are directly related to the surroundings. So therefore with a high intensity highway you want to get things like the hotels up against it. In other words, you want -- from this intensity to this low impact. So from high impact to low impact, which this is the Colden Park development back here. You want to get kind of the most intense 24/7 uses as close to this and then work your way back to less intense use back here.

Another thing we tried to encourage is the density of uses to also its adjacent surroundings. Once again, the density. In other words, not so much the intensity of the use but, you know, the size and the mass of it. Once

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again, we're trying to get the bigger things closer to the road, the next smallest here and then yet the smallest closer to the -- you know, adjacent to the residential.

So what we're really trying to do is look at it as three bands, big, middle, small. That's how this is all going along. I'm really discussing those things that are adjacent to I-84 and how -- and also their neighborhood in the back.

With respect to 17K, what we've done here -- don't mind, Mr. Chairman, if I step up here, we oriented -- this is a -- this is not a mall, it is a -- it's a supermarket anchored neighborhood shopping center. So you have -- in other words, you don't have Kohl's, you don't have J.C. Penneys. You don't even have Banana Republic. You have the supermarket and you have those smaller retail uses that are for the neighborhood, the dry cleaner, the bagel shop, the coffee store, the pharmacy. That's what's happening in the red areas, okay. Again, the orange are food. So there are two casual dining and one fast food up in front. This other red

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GATEWAY COMMONS

here in the lower on the east side of the main road is a bank. The supermarket being here, and the smaller strip retail coming around, and two other buildings there.

                  Last is what I will call design criteria to be compatible to the adjacents. What I mean by that is now I'm going to work my way backwards. Instead of starting from the most intense area I'm going to start from back here. While we try to have lesser intense and lower density closer to the residential, what we're going to try to do is try to make the design of that as compatible, i.e. you will have peaked roofs, shingle roofs, you will potentially have dormers to the buildings. So in other words you're not going to have a block warehouse, you're not going to have the side of a Home Depot, you're not going to have the side of a J.C. Penneys slammed up against here. It's going to have that residential flavor. As we step back that's going to get less and less and less, almost to the point where you could almost not need it here. We are using clapboard siding, decorative entrances for many of the hotels

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around here, and that happens to be prototypical of a lot of the hotels. What we're really trying to do is not make it look like a bunch of big concrete and steel and glass boxes but to try to give a softer, more human feel to it and try to keep that scale. We're not going to exceed the three stories. We're going to play within the box.

I believe this one may be close to being variance free. I don't recall. What I will say is if push came to shove I can make this variance compliant. In other words, I would comply with every single requirement of the ordinance. To that extent, it potentially can be an as-of-right with respect to bulk requirements.

One of the items that we talked about the last time, which I think is important to discuss -- I'm going to put it here -- Mr. Chairman, sorry for the Members of the Board. Are you able to see that.

CHAIRMAN EWASUTYN: Present for the public. We're fine.

MR. KEREKES: I believe I showed this the last time so you may recall this. What this

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graphic is intended to do is -- let's just focus on the front piece, which is the retail. The red lines are really the sidewalks, the pathways around the retail. So instead of, you know, having the typical really long retail with all the parking dead in front, while there is parking in front, because that's really important because you don't want to park behind the building and walk around the building, you want to step out the door and be able to see your car. There are interconnections. We're going to have certain areas which are wider so you don't have to walk down an aisle to get to the supermarket from this front retail building or that front retail building. There's going to be other sidewalks.

What I didn't represent that we talked about the last time is sidewalks along 17K and some other developments that are going to be at the entrance.

What the yellow is representing in here are public spaces, some of which are going to be hardscaped. So it's basically places between buildings where if the users are on either side, they could be open areas where people could sit



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GATEWAY COMMONS

with a cup of coffee, or it could be a restaurant so you can sit outside and have a meal. That's the front part. So in the front, which is kind of the retail and right up against 17K, you can see the way it's diagramed, we have a very rigid walking path and spaced out public areas. In the back section where you see the green, what we've done there is we've created these nodes or these pockets of green areas and they're connected by meandering green space. Now, that doesn't mean to say if you want to get from here to here you've got to walk here. No. There are sidewalks which run down the side. I didn't highlight those. If you want to take a more -- the quick formal way to get from here to here, you walk across, you walk the sidewalk to get to the building. If you happen to be at lunch, if you're either at an office building and you're here, you know, for a meeting and you're at a hotel for the night and you want to take a walk after you've eaten at one of the restaurants, because you didn't rent a car, you had a cab drive you over here, potentially from the airport, you know, you've got this place where

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you can walk around. And it could also be an exercise path as well. We've looked at creating those nodes within that back area in order to soften it up. Once again, when the offices are out it would be, because it's all part -- it could be used by the public, it could be used by the community.

Mr. Chairman, I think that's everything in a nutshell that I wanted to be able to address to the public. I hope I didn't repeat myself too much for the Board.

CHAIRMAN EWASUTYN: Okay.

MR. CAPPELLO: I would like to now introduce Fred Wells. Fred is going to present the scoping outline, as I stated, which will be the areas we've identified that we would study.

I just wanted to add on to what John said. This is his vision as to how this is. I want to reiterate that doesn't mean we have a plan to build three hotel buildings or someone couldn't come up and say I want to do an office building here or, you know, change this use. Once again, we would set the parameters as part of the study to say here are the thresholds you

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have to meet as you develop this property so that when a particular user, be it a hotel, be it entertainment, be it any of the specific uses we've identified as appropriate, comes to this Board, this Board has the template to review it to make sure those standards are there. It also doesn't mean there may not be a use we haven't envisioned yet that, you know, two or three years from now may come, and at that time the Board will examine that use as proposed against what you studied to determine whether it's more intensive of a use which requires more study or less intensive of a use. So they will make that decision then. So we're not casting this in stone. We're giving you a vision of how a road pattern can go, how the connectivity can go and how the theories of development can proceed so we can move forward.

With that I will now present Fred.

Fred is going to go through the nitty-gritty of all the areas we've identified with the Board that we will be studying in detail in that Draft Environmental Impact Statement.

MR. WELLS: Good evening, Board Members

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and Public. I'm from Tim Miller Associates.  
We're leading the team in preparing the  
Environmental Impact Statement.

MS. GREENE: I think you're going to  
have to speak up, sir, for people in the back to  
hear.

MR. WELLS: We're in charge of  
preparing the Environmental Impact Statement,  
which is the scope we've been talking about,  
which is the outline. As we've indicated, the  
Town, the Planning Board and their consultants  
have looked at the scope and had some comments.  
We've added to that and this is -- it's been  
available online and it will be subject to  
whatever changes come out of this meeting that  
the Board would like to see to make sure that  
everything that is of concern to the public is in  
the document that will ultimately be subject to  
review as part of the Impact Statement.

Essentially this is, as Mike Donnelly  
indicated, a table of contents or a long table of  
contents. I'm just going to breeze through the  
general subject areas that we typically cover.  
Typically for a development like this we need to

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cover most of the major concerns, like traffic and noise and disturbed areas. Those kind of things are developed in detail and discussed based on a plan, and then we discuss what the impacts are relative to that plan, and we also evaluate various alternatives to the plan so that the boards can get an idea of relative differences between different plans.

So the Impact Statement has a fairly lengthy project description which would explain the plan, something like what you've heard tonight in terms of what it's showing on the plan and what the elements are. And then we talk about pedestrian and lighting concerns, utilities, water supply, emergency access, landscaping and how it relates to the zoning requirements the Town has. There's some discussion about how it's going to be constructed, whether it's phased and how the sequence of development occurs. That's all part of the project description. And then the evaluation area of the document talks about soils, fairly specifically what types of soils are here and what types of soils will be

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disturbed. It talks about wetlands. It will define the wetlands here based upon legal parameters, and who has jurisdiction over those wetlands, and what value and functionality those wetlands are. We talk about ecology, wildlife and vegetation that's on the site, how those will be impacted by the proposed development. Water resources which essentially is talking stormwater, what happens to the rainwater when it falls on the pavement or falls on the buildings, how it's treated and how it's managed. These days there are fairly specific requirements the State has under the Clean Water Act to capture and treat the water if it hits any kind of impervious surface. That has to be dealt with not only in an engineering manner but in terms of the biology and treatment of the water before it's released into the environment again. Again we talk about zoning and land uses, how this project relates to the adjoining land uses and the land uses in the area. There will be a discussion of that. Traffic as I said. There will be a traffic study which evaluates existing conditions and then compares that to what the

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project -- impacts of the project would be at full build out to see whether there are failures in the system or whether there are issues that need to be addressed before this is built or as it's built. Maybe in stages as traffic increases over time and traffic increases based on the development phasing, that certain improvements will need to be made in the local network. That would be evaluated and identified. Air quality will be discussed in terms of traffic. Essentially the main concern here is the quality of air from an increase in traffic. So the general evaluation has to do with relating the changes of air quality based on the traffic changes. Again noise, not only from the project itself as it's operating, the noise, but also from the operation of the vehicles and also construction noise. There will be an evaluation of that in the document. There's a discussion of taxes and community services, how this relates to the community in terms of fiscal impacts and the impacts on community services, like police and fire services, et cetera. Solid waste, sewage disposal is discussed in the document. There's a

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section on visual quality which will evaluate the proposed architecture in relation to the character of the neighborhood and the surrounding areas. Usually it's done with some graphic studies, either with something like the three-dimensional renderings that the architect has here, and we often will do cross sections. There's various ways of studying that to evaluate what the change in the area would be. The study includes archeology. Any historic resources need to be identified and evaluated in terms of if there's impacts, how that would be mitigated. And then the requirement for the New York SEQRA is also mentioned as an alternative.

Right now the three alternative plans that would be evaluated in addition to the proposal and in addition to what's called no action, which is if nothing takes place how this will compare to that, how development will compare to absolutely no development. That's part of the SEQRA regulation to do that kind of comparison. The document also has a number of appendices which are the technical engineering and other technical information that's presented



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for background for anyone that's interested in reading lots of numbers.

CHAIRMAN EWASUTYN: As Mike Donnelly had said earlier, at this point we'll turn the meeting over to the public. We ask that you give your name and your address for the Court Stenographer. So please take the time in doing so. What we'd like to do is acknowledge everyone and have everyone have a first opportunity to speak, and then those who have additional questions wait until what we'll call the second round.

So at this point we'll turn the meeting over to the public. And to repeat myself one more time, if you'd raise your hand so we can acknowledge you, and then give your name and address for the Stenographer.

The gentleman up front, please.

MR. ORSINO: My name is Peter Orsino, I live at 16 Flamingo Drive, Colden Park. I have a few questions to ask of the developer, the architect and the lawyer.

First of all, I'd like to find out if there's been a closing on this property. If

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there hasn't, why are we here? Let them buy the property and pay the tax.

Second, I live off of Windwood Drive on Flamingo. There's going to be a lot of traffic in there and a lot of noise. I don't care how they do it but there should be a barrier, a sound barrier like they put along the highways. The barrier should be at a certain height and certain distance away from the proposed place.

There is also a sewer line that goes back there. That has to be protected. There's a water line that has to be protected.

Where are the trucks going to go to get out of this property to get back onto 17K when they do start construction, or destruction? That's what I'd like to find out.

I'd also like to find out what company is going to buy this property? Who's their backers and why are they interested in there? There's three malls in this area that are dying. There's hotels that we have in the area that are dying. They have a lot of land between 747 and Drury Lane that could be a beautiful spot for a mall or for a project this big. It would be

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closer to the airport, which they want to get.

It's not that I'm against it completely. I'm against what they're going to do to the property, what they're going to do to the land, what they're going to do to the residents that live in that area. How are they going to stop the impact of construction and destruction? Where are they going to get the water from? Where is the sewer system going to go? Is it going to go into the connecting sewer system in Newburgh that we've been paying for in Colden Park or are they going to go into another source system? Are they going to start their own facility for a sewage treatment plant? This is my concerns. We're paying for it, and we've been paying for it for years. Right now we're going to have somebody come in with a great project with all the infrastructure already there. Now we're paying for it and they're going to use it.

Right now when it rains too hard the sewers back up. Are they going to alleviate that problem or are they going to cause a bigger problem?

What about the animals that live in

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that area now? Right.

The wetlands. You know, there's a lot in there that we're talking about. I know they didn't buy the land yet because they haven't got the approval, right? They're not going to invest money into something without owning it. So I'd like to know these questions truthfully. That's why we're here, to ask questions and find out the answers. I don't want to be the only one talking but I mean we have hotels that are here already that aren't full. You go down 17K, there's three of them within three miles. There's one on Lakeside Road that's never full. The one across the way by Stewart, never full. The one down by the Orange County Choppers, never full. On 300 you have hotels. I mean it's ridiculous, more hotels. Where are they going to get the people to come from? This area is small compared to any other area in the county. Or a new hub is supposed to be here. We're in the eastern part of the county. Where are they going to draw from? How many people are in the Town of Newburgh, population? What, 27,000 people. Are they going to draw from Walden, Maybrook and

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Montgomery. How do you draw 40,000, 50,000 people? A project like this, they have to draw a lot more than that. They're not going to draw from the City of Newburgh because the City of Newburgh is destitute now. Look at Wal-Mart. Hey, you go into Wal-Mart and you see everybody. You think they're going to come out to a supermarket that's seven miles from the city? Never happen. You've got Walden, you hit the Thruway Market. Come on. You've got Price Chopper, you've got Shop Rite, you've got Stop & Shop. I don't know how the developers thought of this but did they take an area -- a survey of the area and find out from the people first? That's all I wanted to find out.

I hope I made myself clear and I hope the Town Board does understand what I'm trying to talk about. I have a lot of concerns.

I thought there should be a barrier twenty foot high across the back of that property. That's what my idea of it is. John over there, he's got property on Windwood Drive. Without a barrier they could walk right across into his yard. Anybody along there that lives on

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Windwood, people could walk right through their backyard. Put up this barrier. Let them spend that money. They want to put up that big thing, let them spend the money to put that barrier up too. That will stop noise and it will stop the traffic going back.

Right now you can't get across 17K at 5 o'clock in the afternoon. It's a two-lane road. They have a stop light at Rock Cut Road and they have one by the Valley Central School, by the school -- Coldenham School District. The people wanted one coming out of Colden Park. The State said no, there's too many of them on the road now. How are they going to do it, try to get in and out of that park on a two-lane highway? Tell me. That's what I want to know. I think half the people here want to know the same questions.

Thank you.

CHAIRMAN EWASUTYN: This gentleman here.

MR. CORBIN: Good evening. My name is Bill Corbin and I live at 3 Fleetwood Drive in the Town of Newburgh. Mr. Orsino touched on the subject of traffic. I think that is of paramount

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importance to us. Those who live in the area count on those roads and movement through that area for our daily commute both in and out from our homes as well as to go to shopping areas throughout the area.

Some questions relative to some of the statistics. It was stated in the October 2008 environmental assessment there was going to be 2,127 vehicle trips generated per hour.

Certainly on a two-lane road, if it exists in that fashion when this was built, is completely and wholly unacceptable. There's no way that that roadway, two-lane road, can handle 2,000 vehicles per hour. It would be difficult at best to put it in that general vicinity where, quite frankly, the Pilot project has been a complete and utter failure relative to traffic calming. In the last three months I've had no less than once per month been subject to a backup off that exit onto 84. That's without any of this traffic. And they're counting on the drawing obviously from 84 for a portion of the business. Their business model can't exist without that particular amount of volume going by and some

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percentage of it pulling off -- seeing hotels and pulling into it. So the question is how are we going to mitigate that amount of traffic per hour? We already have intersections that fail in the DOT. What's the master plan relative to traffic calming?

In the scoping outline there were nine intersections that were suggested for study. We would like to suggest also that Drury Lane North, Drury Lane South, 17K and Holiday Park, the residential areas down at the Town of Montgomery/Town of Newburgh line, specifically be studied. I will tell you that I leave my house at roughly about 6:30 every morning. If I wait thirty minutes I can plan on a five-minute wait at that intersection to make a left-hand turn to head up to 84 up near Pilot to get on 84 east, and even then it's a high probability event that I'm faced with having to put my foot on the accelerator and come out at a fast rate of speed. Those roads are just not built for that.

We'd also like to suggest in fairness the traffic study be done by an independent consultant, one not chosen by the developer.



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That may seem unfair. We don't trust traffic studies. If you live in that area and you have to navigate the intersection at 84 and 17K every day, you'll understand why we're requesting it be done in this fashion. We'd like an opportunity to help choose who does the study. If development is going to be done on a ten to twenty-year in phases, we'd like to have the traffic study refreshed, updated as each phase is instituted or brought forward to the Planning Board. I think that's appropriate given there's a lot of dynamics, not only within that particular area but invariably the traffic throughout that area is going to be impacted in a much larger radius than simply to Drury Lane and up to Lakeside, et cetera. There's going to be traffic that's going to be generated out of Montgomery as well as anything that transpires across the road from the airport. So this is going to be a very dynamic area without question.

Effectively how are we going to coordinate master plans. Montgomery has a master plan, we have a master plan for this area. I'm

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not so sure we're adhering to it but I think --  
nonetheless, I think we need to start talking  
about coordination between the towns, again  
looking at what could potentially happen over the  
next five, ten, fifteen to twenty years. We would  
suggest that all traffic studies be done using  
new figures, updated figures. The DOT has  
monitoring stations throughout this corridor.  
That data is available. I'm sure they'd be  
willing to participate given what's transpiring  
today at the 84 exit. Previous numbers, previous  
studies based upon historical data have proven to  
be a failure.

Also, in front of the ZBA today there's  
a variance request from the Comfort Inn. They're  
looking for an additional lane off 17K. How is  
that going to affect this project?

I guess one other thing I heard too is  
I heard sidewalks. I don't know if that's along  
17K or if that's simply on the site to allow for  
pedestrian traffic throughout the project itself.  
Along 17K I would be opposed to it because I  
think that's just an accident waiting to happen.

Thank you.

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CHAIRMAN EWASUTYN: This gentleman.

MR. MARINO: My name is Tony Marino, I'm an Orange County Legislator that represents that entire area. First of all, I hope no one is trying to sell this project as a real cash cow to the Town of Newburgh or Orange County. There was mention made about the sales tax or the revenue that would be generated. I'd like to hear some amounts because most of that money that gets generated there as sales tax goes to Orange County. So very little would come back to the Town of Newburgh. That's just a side point.

Orange County does have a master growth plan and it does talk about developing growth along major intersections. So this project fits into that criteria, 17K, Route 84.

They talk about smart growth. The gentleman, the consultant, John, gave a good report about what is smart growth. One part was missing and that is the County's concern about the preservation of residential areas if certain growth is not compatible with that.

Now, I have a copy of the letter that was sent from the Orange County's Planning Board,

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I'm assuming you're going to get a copy of it, with many, many suggestions made. There's great concern that the Planning Department has about this project covering many of the areas that have already been mentioned. I'm certainly not going to repeat them.

As the speaker before me said, when you look at expanding the traffic study further west on 17K and looking at the master plan for the Town of Montgomery as well as the Town of Newburgh, you might want to look at the master plan that Orange County has for the entire County and see if that -- you find that compatible with what you're hoping to do there.

At the last session at the firehouse I spoke with Mr. Cappello about another idea I think needs to be studied, and that's nighttime lighting. The Orange County Legislature is going to look at this year the excessive amount of lighting that we see in a lot of supermarkets, a lot of places which goes on to maybe midnight. If we're going to have an entertainment center, there was some mention made at the last meeting that there might be some type of a race track or

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go cart, I'm not sure but that was mentioned. That might have nighttime hours. I'd ask you to look at the amount of lighting, the type of lighting that's going to be used and how late at night the hours would be that the lighting is going to be on so that it doesn't affect the residential areas that are in the back of the site.

Certainly Orange County is all for growth. We all want tax ratables, obviously. But at the same time we want to preserve the quality we have and the residential areas we have. So there are a lot of issues to be addressed.

One other point. I think it's important that you look at the financial backing of these developers because I'm hoping along the way you will be asking them to do a great deal of work to preserve the area, and also as well as addressing the wastewater concerns and water concerns in the area. We want to be sure that they have the financial backing to do those things so that we don't find ourselves a few years down the road where they're coming up short

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and then they're going to come back to the Town and ask for the Town to help fund some of those projects that need to be addressed.

There are a lot of issues to be discussed. Please follow the Planning Board -- the letter from Orange County Planning Department. We're concerned. We have a lot of concerns about growth in Orange County, but we also want to protect the residential areas we already have. Thank you.

CHAIRMAN EWASUTYN: The lady to the right.

MS. TIRADO: Thank you. You know, I'm coming up here because I'm thinking there's a mike. I guess I could have stayed back there. You fooled me this time.

My name is Vanessa Tirado, 89 Lakeside Road. Well, you know, as I'm listening to you people speak, it brought me back to when we were here for a project that was in the same area that this project is now being looked at, and that was Pilot. Our concern was traffic, our concern was our environment, our concern was the living conditions for the neighboring residential areas,

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and we came and we approached the Planning Board. We had so many people speak so intelligently just like they're doing this evening. So here we are again, we're back, and we're dealing with a project virtually in the same location, virtually going to surround the same residential area that's going to impact our area.

I don't think we've ever been against growth and things coming to our neighborhood. I think that's a good thing. What we thought was bad then and what we think is still bad today is how it impacts our area. When it impacts the area in the negative, like which we have seen Pilot do, and as I was sitting here and we spoke about traffic and we said how difficult it would be to have these trucks come by and park and turn and mitigate themselves into Pilot, the gas station, we were told no, it's going to be okay, it should be no problem. Well Pilot came, and it's here, and there have been problems. I know most of you know about the problems that have come with it. It's traffic, it's trucks turning from 84 onto 17K in an eastbound direction then entering into Pilot. If you had two trucks

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there, the third truck coming off of 84 is blocking 17K's traffic, and this happens actually both ways. This has affected all of us at some time or another traveling along 17K. This had affected me and my family really bad at one time. My son was in a car on 84, exit 6, a truck in front of him. He's behind the truck and a car barreling down 84 to get off of exit 6, they didn't see there was a back up of traffic, couldn't stop his car and rammed the back of my son's car. Thank God, thank God my son is still here. As a result of this traffic mitigating off of 84 onto 17K, people have had problems there. I know this Board is aware of several accidents that have happened in that little corridor.

So again we are here speaking on traffic and the conditions that this will affect us because there's a lot of growth coming on 17K. We have this project that they want to develop, we have a project across the street from the school that is a housing project that they wish to develop, and into Montgomery because all up and down Montgomery, which also flows into 17K coming down that 84 entrance, they're also



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developing a number of projects.

So we're here again and we're going to continue to come here and we're going to continue to tell this Board you have to look at this. We have no objections to growth but we want the growth to be what is sustainable to our area, what is conducive to our life and for our quality of life.

When you develop something like this you're taking away environment, you're taking away the trees that help us breathe, you're putting up asphalt which is actually no good. We've had vehicles coming in and out of here. These things impact us. All of us have lovely homes there. We would like to stay where we are. We would like to go in our backyards and not breathe the fumes that are coming out from Pilot in the winter because the vehicles stay on to keep them warm. We've been there, we've spoken about this, we called the police department about this. Some of our children have asthma, and this concerns us because of the growth and the health of our children.

So once again we come and we approach

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this Board and we tell them to look at our issues that we bring forth and address our issues and not let it be just a barreling through of a new developer coming with this idea and this plan.

I know others would like to speak on the same thing but I just wanted to address the Board on this matter. Thank you so much.

CHAIRMAN EWASUTYN: The gentleman here.

MR. BISSINGER: Good evening. My name is Charles Bissinger, I live at 43 Windwood Drive, Town of Newburgh. We would like to see a study performed by the DEC biologist for endangered species on the site. There are Copperhead snakes and Picker frogs breeding there, and we would like to see a study done by a non-biased agency DEC biologist.

This Board has required projects in the past to do a study on all trees above eight-inch diameter. An example is the project off of Route 300. The study should include tree sizes, GPS locations, health status. Included should be those trees that are deemed safe at all costs. Also the tree preservation plan should be included. I know you guys talked about tonight

1                    saving something over thirty inches but you  
2                    should keep the smaller ones.

3                    We would request a wetland to be done  
4                    by the U.S.D.A. soil water conservation district  
5                    or the DEC as the amount of wetlands developed is  
6                    exactly one acre less than the 12.4 required by  
7                    the DEC for development. We would like to check  
8                    that out better.

9                    I may be pronouncing the name wrong,  
10                   Mr. Kerekes stated in the minutes of February 19,  
11                   2009 that he uses a document called the growing  
12                   greener. How can a project that starts with 64  
13                   acres of forest and ends up with less than 10  
14                   acres of the trees and wetlands be considered a  
15                   green project? There are no real conservation  
16                   areas as he stated.

17                   In a full environmental assessment on  
18                   the site description, number 4, they state there  
19                   are no bedrock outcroppings. There are rock  
20                   outcroppings on site. This document was date  
21                   October of 2008.

22                   Also I want to see something done with  
23                   the buffer zone in between the sewer easement.  
24                   Make that buffer zone from that easement to their  
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property, not part of that sewer easement part of the buffer zone. You don't want that included as part of the buffer zone.

We're concerned about the water in our basement. If they start doing any kind of blasting or anything, what's going to happen to all that water? Everybody on Windwood Drive now, a lot of people, all of Colden Park, everybody has sum pumps in their house to keep their basements dry. We're worried about having pools in our basements.

Thank you.

CHAIRMAN EWASUTYN: The gentleman standing in the rear.

MR. TIGHE: Chris Tighe, 64 Westwood Drive. Before I ask my question, Mr. Chairman, I wonder if it might be possible, I was standing in the back and I noticed a lot of our senior residents were fanning themselves, if maybe we can turn the air on.

CHAIRMAN EWASUTYN: I don't mind, and I will. What happens when the fan is on, and I probably prefer to say open the door. When the fan is on the ventilation system in this room,

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it's so loud. Either way. At the beginning of the meeting I was going to suggest someone open the doors in the rear. Whatever you prefer.

MR. TIGHE: Whatever makes people comfortable.

UNIDENTIFIED SPEAKER: What's the matter with the speakers?

MS. GREENE: What about opening the doors?

CHAIRMAN EWASUTYN: That door I don't think I would open because of the noise from the traffic.

UNIDENTIFIED SPEAKER: Noise from traffic?

CHAIRMAN EWASUTYN: The tire noise.

MR. TIGHE: Thank you, Mr. Chairman. Actually, you guys want to hear something ironic? Some of you know me as the guy that was trying to fight against the truck stop. Jimmy Presutti called me earlier and said how come you're late, and I was literally still at the intersection. There was a tractor trailer blocking the road.

Anyway, I have the minutes from that February 19th meeting. I read through them and I

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noticed that there's a lot of reference to the design guidelines, and there's also reference to the design -- will the applicant come closer to the design guidelines. My question is will they have to strictly conform to those design guidelines or is this some sort of -- is it a flexible kind of thing? I read where one of the consultants referred to a campus-style design, maybe to upgrade its appearance. The words sea of asphalt were mentioned as well. I'm kind of curious, since we do rely on our consultants to look after our interest, if our consultants are actually satisfied with whatever changes have occurred in that time?

For example, there's also a reference to the buffer. I believe it's supposed to be a fifty-foot buffer. That buffer cannot include the easement for the sewer line that goes behind Windwood Drive and separates Windwood Drive from the project. If not, we're wondering if the applicant would be willing to significantly increase that buffer? It looks like there's room for movement in the project as I see it there, especially with the amount of green that's in the

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project. Perhaps buildings can be moved away from that line and more of a natural buffer provided.

I had a conversation with one of our neighbors who we consider to be a local site plan expert, Mike Pomarico. He couldn't be here tonight, he's out of state on business. He had mentioned something to the developer in a private conversation that I actually mentioned too, and that is we're a little concerned about the placement of the supermarket up front and will it look just like another sprawl if you will, just another retail sprawl, and could they possibly rearrange it so there's something more attractive up front. We're really trying to get that community feel. We were told by the rep that they want that up front because it will attract, however I don't think that really -- I don't think that really makes sense because when you have a supermarket, supermarkets are a destination. People don't just randomly drive by a supermarket and say hey, I think I'll stop. Like Shop Rite in Montgomery, it's off the main highway, you don't see it until you go into the

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road. Just a suggestion.

Also in regards to traffic, I know you've heard a lot about traffic already, and that's obviously a big concern. The traffic -- one of our -- one of my chief complaints about any development is that we can't rely on DOT to look after our interest. They will not get it right. For example, the Galleria in Middletown, Woodbury Commons, somebody at some point said the infrastructure there would be fine to accommodate all the traffic. DOT gave Pilot permission to do what they did. Clearly they were way wrong. Not only that, that infrastructure is four years old and it's already crumbling. The infrastructure can't handle what's there, so adding a project of this size is going to obviously exasperate it. We would be very interested in seeing improvements all the way from the 84 exit ramps all the way up to Colden Park.

One resident said that they thought sidewalks would be a bad idea. Mike Pomarico and I discussed sidewalks and he thought it might not be a bad idea if something came from Colden Park up to the project.



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Another possibility too, obviously the traffic light where you placed it, it's just feet from Pilot's traffic light creating -- exasperating what already exists there.

We had hoped that that strip joint might go away and they would build their intersection there along with Racquet Road. I hoped maybe they would use -- eminent domain would be used to relocate that strip joint, maybe to an industrial area like Governors Drive or wherever so it's out of sight of any residential area. Because the Town, if the Town does something like that they have an obligation to move them somewhere. Nobody wants it in their neighborhood. There are industrial areas the Town can place these things so they're nowhere near residential areas.

The last thing is in regards to -- in regards to all that, obviously the applicant will be told by DOT and by you, the Planning Board, you know, the requirements. It will be up to them to go above and beyond to, I don't know how else to put it, but to say win our support. They have to go way above and beyond because what we

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see now is not pleasing at all. It's got a good -- they have a good internal plan in some ways. Obviously a go cart track next to Colden Park is not going to fly. Obviously no buffer is not going to fly -- no significant buffer. Obviously the traffic is not going to fly. I think there's a lot of good things.

I want to make sure too that whatever variances are going to be looked at, we want to fully understand. For example, how many variances will be required and what specifically are they? If we're going to be going to the Zoning Board of Appeals to have conversation with the Zoning Board, we want to understand the issue beforehand if we're going to support or oppose the project.

That's all I have to say. Thank you.

MS. GONYEA: I'll try to speak as loud as possible. Ellen Gonyea, 26 Linden Drive in Colden Park. Several of us took the opportunity to sit through the sessions that the advisors, consultants and the Board had with the planners from 5:30 until about 10 to 6 -- 10 after 6 this afternoon, and I heard some really very, very

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good things that address some of the issues that we have brought up among our own discussions, but I heard some very bad things as well.

First of all, I'm very pleased to hear that Phil Shuster is going to be involved from the Black Rock Forest. He's going to be a conservationist who is going to deal with flora and fauna on the site. So I think that's a very positive thing.

I was very happy to hear Cliff Browne say that this needs to relate to the Montgomery plan. Cliff Browne is the gentleman second from the left. In essence he speaks exactly what Tony Marino was trying to bring forward today. I think we need to see more regional planning applied, and I'm really glad that Cliff brings that up. It's something that we believe in.

Mike Donnelly, the Attorney, also related to the County-sponsored regional study. It is not just a bad airport potentially which some people on the Board seem to feel. It's about many things which apply to our area, and we do live in the shadow and in earshot of that airport 24/7.

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I'm a little upset with the Landscape Consultant's approach to saving only the large trees. I don't really think she meant it that way. I think she means significant, and so that I think the identification of the species which do exist there is very important. They need to be tagged, especially since precedence has been set on the Mazarelli properties with protection of eight-inch specimens. I think that you're going to find that there are many things that need to be addressed in the green protection concerning plant species.

I personally want to know where that Copperhead den is, and you can take them away. That's okay. I don't want to see that. I called my husband home from work last year to smash the head off a garden snake. I don't want that either. Go find that.

Now that airport. Be there at 6 a.m. when they're allowed to start to fly and you'll hear the noise. Be there in bad weather when they receive planes from all over the world up through 1 a.m., and they're not supposed to be.

One of our residents who did some

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research came up with this: The FAA will not certify a project that is more than four stories. So here we have -- here's another inaccuracy. We were presented with five to six hotels which are now down to four, possibly three, one of which was going to be six stories. So FAA is not going to approve that. FAA requires a scope at 360 feet, and that won't work with the placement that you see on these drawings. So that's important.

Other things of concern. In your noise study, factor in the actual sound of the trucks who are not being studied by code compliance for their dieseling and are not meeting N codes which we have registered complaints for going back two-and-a-half years. We were on site, we went to the State Police, we went to the Town Police. State Police couldn't even find the law. We need code compliance. So enough said on that. Please note in your noise studies the actuality of the sound of the dieseling when the laws are being broken at the Pilot site.

Other things to take a look at from our perspective include the ways that you're going to turn in to this property, and the need to slow

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the lanes, and what cooperation is necessary with the Department of Transportation to get that slowing.

Now, John, the Architect, said tonight he could bring this project in without variance. Why not do it for once. Why not actually apply the terms of the master plan and the codes that exist and not need a variance, not especially need the Town Board to pass a law that will repeal or redress a law which is already passed which is a law that protects us. So don't have variances, cause them to bring the plan into the laws we have that protect us right now. Don't make us go to ZBA. Don't make those gentlemen go to ZBA constantly and constantly. That brought small business in this Town. Solve the problem here. Solve it for us and solve it for the businessmen.

Thank you very much.

CHAIRMAN EWASUTYN: The gentleman in the back.

MR. PRESUTTI: My name is Jim Presutti, 19 Windwood Drive, Colden Park. I have a couple questions with respect to the blasting. Last

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year's full environmental assessment that they gave you in I think October 2008 there was blasting that was going to be necessary. I just want to make sure these issues are covered in the scoping. There were several issues. How they enable the rock from the blast. This rock can travel long distances. Also, the vibration caused by blasting can travel close to 500 feet, okay. When you have those vibrations the home foundations, in-ground pools within 500 feet, underground gas tanks which will be adjacent to this site on the site that starts with a P, such as Pilot, could also be affected. How is this going to be mitigated? It has to be mitigated. How do you plan to address the environmental issues to the homes immediately bordering the properties with respect to water and stormwater? Blasting can change or damage the current water flow that's already there, which is not good now. Issues with water already exist and we need to possibly consider a bond for the homeowners in case there's a problem later.

Is the New York State Thruway Authority an involved party? If not, why not? The New

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York State Thruway Authority is covering Interstate 84. I didn't see that on the involved parties or interested parties list. I'd like to make sure they're a part of that. And the FAA also since we are so close to the airport. There is quite a height change from one end of that site to the site where the hotels go.

The other things that I have, I had a little dissertation and I'm just going to touch on it. When we first met for this project the developer asked to meet with the homeowners before the project started. We met with them in May of 2008. We met at the firehouse in Coldenham. We thought this was great, the first developer that actually came to us first. We thought this was fantastic. They came, presented a plan, the plan included a business park. The business park included such things as, I want to say offices, flex warehousing, small retail, more community services and community stores. It was more of a hamlet type community project. This is almost 180 degrees from that. So we just feel that we don't want to be duped again, okay. We just want -- we're willing to sit down again and



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work with the developer and work with his design aspects and help him with this project to move forward. We know as long as they come in and meet all the requirements the Town has as far as zoning, planning and such, that we can't stop them anyway, but if we can make it more habitable to them and to us as their neighbors where they look out for us also and not just the revenue that's going to be coming from this project, we would just be much better. That's all I ask.

I really urge the Board to have all the mitigating factors go beyond the minimal scope and have the future in mind.

I really want to thank you all for your time.

Also, the copy of the questions -- we have a five-page document and I'd like to know if we can -- that five-page document has all the questions basically that you're hearing tonight. We want to know if we can put that into the record and give a copy to Planning Board --

CHAIRMAN EWASUTYN: Sure.

MR. TIGHE: -- is that possible, from the community --- -

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CHAIRMAN EWASUTYN: That's fine.

MR. TIGHE: I also have a copy of the full environmental assessment that was given to the Board in October of 2008 that I have gone through with a fine tooth comb and marked up pretty heavily for incompleteness and some discrepancies. I would like to know if I can turn that in also?

CHAIRMAN EWASUTYN: That's fine.

MR. TIGHE: Thank you.

CHAIRMAN EWASUTYN: What I suggest you do is give it to John Cappello, the attorney, now, and John will make it a point of getting copies to Mike Donnelly, our Consultants and Planning Board Members within the course of the next day or two.

John.

MR. CAPPELLO: Absolutely.

CHAIRMAN EWASUTYN: The gentleman in the back here.

MR. JOHN McDERMOTT: Good evening.

John McDermott, 72 Westwood Drive, Colden Park. I know it's been talked about tonight but I've got to emphasize it again because the most

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serious problem that I see there is the traffic on 17K. From Governors Drive west within a mile there's seven existing traffic lights. There will be at least two more, one is going in Colden Park I believe. They promised that for I don't know how long. This developer is going to need at least one. Part of the problem that exists is because the traffic study that was done with Pilot did not really emphasize and designate the failure of certain spots on that traffic study. We warned them that you could not get three tractor trailers across 17K going west off the ramp and line them up without messing up that traffic. The serious part about it is not only does that stop the traffic on 17K going west but it backs them up on the ramp, and when it backs them up on the ramp they end up on Interstate 84. And when they're coming down there at 75 or 80 miles- an-hour and those cars are parked along that existing traffic lane, it's very, very dangerous. So we've got to be extremely careful that whatever we do does not make that any worse than it already is.

Now, when you go underneath those

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bridges, those overpasses, you can't see the traffic lights to begin with. We warned them about that as well. When you're traveling east or west, at certain times of the day the sun is shining right in your eyes. We can't do anything about that, we recognize that, however that is a serious problem. I just want to go over some of them with you.

Racquet Road has had a tremendous number of accidents on 17K. There's a gymnasium there, there's office buildings in there. There's a great deal of traffic. There's been a lot, a lot of accidents there. Every time somebody going east that wants to turn into Racquet Road, the cars automatically swing around behind him, which is illegal. We know it is. You're not supposed to go over that white line. We have the same thing on Rock Cut Road. They do exactly the same thing. And there's a continuous problem with that. You cannot solve that unless that's a four-lane highway from 84 at least to the school. Whatever else they do, the amount of traffic, you'll see it on the traffic study, and I hope that whoever does this traffic study

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really tells us exactly what's going to happen because it is horrendous and we all know that. The amount of traffic out of Rock Cut Road going east into Newburgh is unbelievable in the morning. The cars are right there again. Those cars that are going to turn into Rock Cut Road, they all go around those cars and around them and people are taking a left there. It's very, very dangerous. And they're not lying when they say they can't get out of Colden Park taking a right-hand turn let alone a left-hand turn. You have the problem with the school. What we should ask them to do, the minimal we should ask them to do is to dedicate some of the property along the front of their property to the State of New York so they can widen that road. I mean they've got almost eighty acres, they certainly aren't going to miss fifty feet.

Why should they have an exit that isn't lined up with Racquet Road? That is absolutely ridiculous. You're going to have two traffic lights within 100 feet of each other. That doesn't make any sense. This is a ridiculous situation that they're proposing in front of us

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that's going to cause a tremendous number of accidents. I just want to make sure that the traffic study is done. You know what, we should have somebody audit the traffic study and make sure they did it right. So that's my main concern. There's lots of little ones. That one I know we have to get now, we can't wait, just because of the problems that Pilot created, it's going to make it worse for everybody else. There is -- you know, there is a high pressure gas line on the north side of 17K. So we have to keep that in mind. But I'm really concerned about Racquet Road. That's a real problem there. If this traffic increases much more we're going to get them backed up again right onto 84.

You've got a lot of work, guys. Thank you for your service.

MR. ORSINO: Can I speak again?

CHAIRMAN EWASUTYN: The rules were set at the beginning. Those people who haven't had an opportunity to speak, speak first and then we'll go to another round.

The gentleman standing.

MR. DAVID McDERMOTT: I'm David

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McDermott, I'm his brother. I live at 11 Paddock Place which is Meadow Hill, but I work on 17K so I drive down that way every day. Quite awhile back I saw an advertising sign for a Dunkin Donuts and I said wow, this is going to make my day because it's right there. My car can't go past Dunkin Donuts. Since John and I and our other brother used to own this property, I know there were 87 acres or so. Tonight you're only identifying 84. I'm thinking you must have spun off the Dunkin Donuts site prior to approaching the Board about developing the rest of it.

So when it's time to start thinking about what is being generated here as far as traffic is concerned, and the entrance, and the exiting of the road, my silly little Dunkin Donuts is probably going to attract 50, 60 cars a day and it really ought to be added together with the development of the rest of the property.

Now, maybe they could -- they really can't move down to Skyers Lane because that would make it impossible. Gee, I don't know what they could do. I don't want to give up my Dunkin Donuts so I'm really in a dilemma here. Maybe,

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maybe they could figure something out.

Thank you.

CHAIRMAN EWASUTYN: The gentleman in the back.

MR. KRAZNER: My name is Steven Krazner. I attended a meeting with the homeowners association here a little while back and I spoke with the attorney up there and I asked him a few questions. I just wanted to get some follow up on that. I asked him about -- he said there was an established need for a grocery store in that area. My questions were was there a market study done? Usually when you have grocery stores you have to establish a need. You have a market radius study done of what the population is that's going to use that and so forth. It was presented to us at that time that these studies had been done, or it was indicated that there was an established need for it. I think it's very vital if you put a grocery store up there when we have five or six others in the Town, we need to see these reports. I would like to know if they currently exist, if you guys and the Board have seen these reports? If not, where



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GATEWAY COMMONS

are they and how do we get a hold of them?

Thank you.

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

(No response.)

CHAIRMAN EWASUTYN: Mr. Orsino.

MR. ORSINO: Pete Orsino again. I have a perfect solution. Make the exit off of 84, forget about 17K. Make the exit off of 84 and back onto 84, right. This will alleviate all the traffic problems and they'll have their own exits. They don't want the people from here, they want the people from the airport, Montgomery, Beacon, wherever. Pick the airport. They're spending millions of dollars for the property. Spend a couple more million to build two exits on 84.

Thank you.

CHAIRMAN EWASUTYN: The gentleman in the back.

MR. PRESUTTI: Jim Presutti again, 19 Windwood Drive. Just a couple things I forgot to touch on in respect to stormwater. On the site

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plan it shows some detention ponds and the amount of impervious blacktop that is on this project and the amount of runoff off the buildings onto that impervious blacktop. I'd like to see a more careful and thorough study done on the size of the detention ponds so as not to make the wetlands worse than they already are, which will make our basements worse than they already are. I would like to see a more intensive study done on the detention ponds. I would also like them to consider using permeable pavers or something of the such. Permeable pavers are a paver or a block that they use in parking lots that will allow water to filter down through it rather than run off it. It is used right now. If you want an example of it you can just go to Ithaca outside of the university. It's used in parking lots outside of Ithaca on the Cornell University itself.

The other question I have, the majority of soils on the site were given serious limitations for urban use by the U.S.D.A. soil water conservation district survey, wetness being the main problem. What measures are going to be

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taken to ensure our homeowners in the adjacent properties on Windwood Drive aren't going to see a rise in their water table after the site disturbance ?

The other thing is I would like to see a plan that is going to preserve the areas that are disturbed during each phase as it goes from phase to phase. There's going to be a time when phase I is done and they're going to go into phase II. There's going to be some areas that are disturbed. I'd like to make sure that there's a plan to see that those areas that are disturbed are covered with a cover crop so we don't have more silt and runoff going into the streams and wetlands which eventually run into the stream behind Colden Park which is tributary to Washington Lake.

Also, the stormwater protection plan. Has that been developed yet? If it hasn't, one should be.

That's it. Thank you.

CHAIRMAN EWASUTYN: The gentleman in the back.

MR. TIGHE: Chris Tighe, 64 Westwood

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Drive again. Mr. McDermott reminded me of one other thing, and that is on the intersection with regard to traffic, Rock Cut Road and 17K, he described for you the problem that it is, and it is in fact a failing intersection. Whatever projects are out there, I would suggest to the Board that the first developer to come along ought to be the one who has to correct that intersection rather than waiting for another developer who might be developing a little later.

The other thing is, I remember too, that there was a town down south, and I don't remember the city, or the state for that matter, they had compelled a Pilot truck stop to build a new lane which would be the equivalent of if a truck comes out of Pilot right now they would have their very own lane that would run along 17K and make a right onto 84 west. Pilot has a history of understating their traffic volumes before they go into a community. This community compelled them to do it. Pilot sued the Town but they lost. I don't know -- I know the Planning Board doesn't have any such power, if the Town Board does. That sort of thing. That would be

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-- that's something that should have happened in the first place. DOT probably didn't require it. That would help a little bit. But my apologies to this developer because I don't think they should have to pay for that failure, but somebody should. You know, if Pilot couldn't be compelled to do it, they probably, as part of this project, should be required to do that, as well as widen the off ramp at exit 6 to 17K east and west.

Also Mr. McDermott highlighted the fact that traffic occasionally backs up onto 84. Last winter, not this winter but the previous winter, poor Mr. Woolsey suffered a phone call from me because I was so mad because I got on 84 at Union Avenue and there was a traffic backup right at Union Avenue on 84 west. I turned -- I was able to get off the exit and go the other way. I, out of curiosity, drove down 17K and back up the other way. That traffic was a traffic jam that originated at the truck stop and went all the way to Union Avenue. That I believe is about three or four miles. So that's just to underscore what we're facing. Obviously that was a rare occasion but it happened. It did that day.

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Thank you.

CHAIRMAN EWASUTYN: At this point I'll turn to Mike Donnelly -- the last question in the back.

MR. BISSINGER: Charles Bissinger again. Jim brought up about the retention ponds. Who is going to be responsible to maintain them, keep up with them, take care of them, keep the mosquitoes and the West Nile and everything out and the whole nine yards? That shouldn't fall upon -- you know, who's responsible for that? Who is going to do that?

Another thing. There's going to be construction there. Something is going to get built there some day. When it does, we in Colden Park should have peace at night and no construction and peace on Sunday for a family day. No construction on Sundays. We don't want to put up with noise at night and during the day. It would be appreciated.

Thank you.

CHAIRMAN EWASUTYN: At this point I'll turn to Mike Donnelly to summarize the meeting for the public. Mike.

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MR. DONNELLY: It would be my recommendation to the Board, after hearing the public, that the scoping hearing be closed and that the consultants, all of whom have taken notes, myself included, then make recommendations as to where the issues that you raise this evening should best fit in the scoping outline, the table of contents we've been working from, and bring that back to the Board, because it's obviously the Board that makes the final determination as to the adequacy of the scoping outline. I don't know that we could do that tonight. I think it's something that takes a little bit of reflection to see where those things best fit. I think that there was a good deal of good comment from the public, and I'm sure the Board appreciates that.

After that scoping outline is concluded it will be available. It will be sent to all of the interested agencies. The applicants will need to prepare an Environmental Impact Statement that is based upon that statement.

There was a comment, if I could John quickly, from some members of the public about

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who does the various studies. The SEQRA regulations, the State Environmental Quality Review Act, does give an option between the municipality conducting -- the lead agency conducting the studies or the applicant. It might sound like the municipality would always want to be the one conducting the studies. That's generally not the case because one of the things that SEQRA does allow is if the applicant conducts the study then the applicant must pay for the Town to hire consultants to do a review of what the applicant has studied in terms of methodology and adequacy. I think that's an easier method for most municipalities that have a consultant team that reports to them. Since traffic was the main issue, I think the public should be aware there has been input from the Town's traffic engineers into how the study should be shaped, and certainly the results for adequacy will also be reviewed by the Town's traffic consultant. All of that information will be incorporated into the Environmental Impact Statement.

CHAIRMAN EWASUTYN: The last comment.



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GATEWAY COMMONS

MS. BISTOR: I'm Bev Bistor, 6 Flamingo Drive. I would just request that the Board, after all our questions, that we could have another public hearing with our questions answered possibly.

CHAIRMAN EWASUTYN: I think Mike Donnelly explained the questions that you raised tonight will become part of the scoping document. From that scoping document the Draft Environmental Impact Statement will be prepared. At that particular time the public will be brought forth to look at that as far as its completeness for the answers to your questions.

MS. BISTOR: Thank you.

CHAIRMAN EWASUTYN: Now we're taking those questions and putting into what Mike had said earlier, the index or the reference.

MS. BISTOR: Thank you.

CHAIRMAN EWASUTYN: At this point I'll move for a motion from the Board to close the public hearing on the scoping session for the Gateway project.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

We thank you all for participating tonight. As Mike had said, we look forward to revising the document.

MR. CAPPELLO: I'd like to thank you and the public. We will endeavor to continue to meet.

MR. WELLS: A question for you. I just want to get a game plan of how we can modify -- I can circulate the doc file and I could put I guess the highlights that I found in that file

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and then circulate it around to other people to add to it.

MR. DONNELLY: That might be the best way to start because we all have notes. If Fred sends it around, we all look at our fields of concern, make sure they're there, then when we're done --

MR. HINES: Normally what we would do is get our comments to Bryant and he can get it back to you.

MR. COCKS: Instead of trying to have five different documents --

MR. DONNELLY: Do you want Fred to start?

MR. WELLS: I was going to suggest to have Bryant start.

MR. COCKS: That's fine, too.

MR. WELLS: Why don't I do that. I'm going to be away the next few days.

MR. COCKS: That's fine.

MR. DONNELLY: I'll send my comments to Bryant.

MR. WELLS: Very good. Thank you.

(Time noted: 8:45 p.m.)

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

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

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DATED: August 8, 2009

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

----- X  
In the Matter of

WOODFIELD MANOR  
(1995-34)

Request for Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: July 16, 2009  
Time: 8:52 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO  
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MR. BROWNE: The next item we have under Board Business is a discussion on Woodfield Manor. We received a letter from Jacobowitz & Gubits and requested a preliminary subdivision approval.

Who is going to take the lead on that?

CHAIRMAN EWASUTYN: Mike Donnelly. We got a letter from Michelle Babcock --

MR. DONNELLY: Actually the first letter was a request by the applicant through Michelle Babcock to renew the conditional final approval. As you'll recall, a conditional final subdivision approval has a maximum duration of 360 days. What Michelle wanted you to do was on the day it expired just approve it again and have another 360 days. While I can't argue against the logic of that, to me that is violating at least the spirit of the limitation of the 360 days. So after that first letter came in I sent her a letter, and I think I copied you some weeks back on a copy of a letter I had written to you as a Board in the past about what I think you can do, and I think that is if the applicant were to surrender the conditional final approval, return

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to the preliminary approval phase where neither your own ordinance or the State law imposes any particular duration on the approval, and then extend that preliminary approval. With my memo to her in hand I think she redrafted her letter to ask for just that. If that's the case, you can accept that surrender and then reissue the -- extend -- the preliminary is still valid, extend that for something appropriate. I would think something like six months or a year would make sense.

CHAIRMAN EWASUTYN: What would the Board's -- I'll make a suggestion. I would suggest extending it for a year because in this particular market, just the way things are going, it seems more like a logical window.

MR. GALLI: Especially for them.

CHAIRMAN EWASUTYN: This happens to be the oldest subdivision in the Town of Newburgh. It started in 1987.

MR. FOGARTY: Do we set a precedence or we look at each case separately?

MR. DONNELLY: You have been looking at each case separately. Talking about the one

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WOODFIELD MANOR

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year --

MR. FOGARTY: The surrender.

MR. DONNELLY: I don't think you set any precedence. I think you can also give ninety days or six months. If somebody said they thought they would be getting the Health Department approval in a month, you might want to give them ninety days. In this case a year would be appropriate as well.

CHAIRMAN EWASUTYN: I think if you read the opening paragraph to what I'll have Mike discuss real quick, and I think the Town adopted -- the Town acted on it last night to adopt holding off collecting rec fees. What the Town is really saying is in the weakness of this real estate market we understand that it's difficult, so for the next two years we're going to offer you an alternative to relieve some of the pressure.

So again, it's your decision. To me a year sounds reasonable under these circumstances.

Being honest, the other thing is it keeps this office from having to sort of regenerate --



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MR. BROWNE: John, one question. Mike, in your communication back and forth did you get the impression that there was a thorough understanding that if the code changes they'll have to comply to the new code?

MR. DONNELLY: I think that's the law.

MR. BROWNE: I know it's the law.

MR. DONNELLY: I think in my letter --

MR. HINES: It's in Mike's letter.

MR. DONNELLY: -- I said that. I did not speak to her personally.

MR. BROWNE: As long as that's done I'm fine with that whole thing.

CHAIRMAN EWASUTYN: Then I'll move for a motion to -- we would be rescinding the conditional final approval?

MR. DONNELLY: I guess accepting the surrender of it.

CHAIRMAN EWASUTYN: Accepting the surrender of the conditional final approval for Woodfield Manor and granting them preliminary approval for a period of one year.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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WOODFIELD MANOR

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Thank you. Myself yes.

Mike, when you have an opportunity would you --

MR. DONNELLY: Write a letter.

CHAIRMAN EWASUTYN: Yeah. She's on maternity leave.

(Time noted: 8:57 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.

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DATED: August 8, 2009

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

----- X  
In the Matter of

QUARTERLY SITE INSPECTIONS

----- X

BOARD BUSINESS

Date: July 16, 2009  
Time: 8:57 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO  
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QUARTERLY SITE INSPECTIONS

93

MR. BROWNE: The last item is  
quarterly site inspections, to set up a date  
for that.

CHAIRMAN EWASUTYN: Thank you. I know  
John Ward has some tie ups the next week or two.  
Let's pick a date in August or the latter part of  
August. Does anyone have a calendar?

MR. FOGARTY: I know the 22nd is no  
good for me.

MR. GALLI: The 1st, 8th, 15th, 22nd,  
29th.

CHAIRMAN EWASUTYN: The whole month is  
no good?

MR. GALLI: The 29th is Labor Day  
weekend.

MR. HINES: No, it's not.

CHAIRMAN EWASUTYN: Can we do it on the  
29th?

MR. BROWNE: I think I'm good.

CHAIRMAN EWASUTYN: Let's make it for  
the 29th of August.

MR. FOGARTY: That's not Labor Day  
weekend?

MR. DONNELLY: No, it's not. You would

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think it was but it isn't.

CHAIRMAN EWASUTYN: Bryant, would you remind me of that?

MR. COCKS: Absolutely.

(Time noted: 8:58 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.

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DATED: August 8, 2009

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

----- X  
In the Matter of

~ RECREATION FEES

~ LANDSCAPE SECURITY & INSPECTION FEES

----- X

BOARD BUSINESS

Date: July 16, 2009  
Time: 8:59 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

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BOARD BUSINESS

CHAIRMAN EWASUTYN: The last thing;  
Mike, just maybe review with us what you think  
the Town Board adopted.

MR. DONNELLY: Let me first put it in  
perspective. It came up in a few contexts. If  
you've noticed the language I've had in my  
resolutions for the payment of the various  
financial securities, it usually says something  
like before signing of the plan or the issuance  
of a building permit, and I had done it that way  
purposely and had a discussion with Mark Taylor  
and Jim Osborne back a couple years ago when we  
reworded those various resolutions because  
there's a great deal of inconsistency in the  
sections of the ordinance dealing with financial  
securities. Some of them talked about before  
signing the plan, others talked about before  
issuing a building permit. I don't know that it  
was intentionally said that way. I think they  
were just drafted at different times and they  
didn't dovetail.

One of the things Exeter has now  
applied for in its application to the Zoning  
Board is an interpretation of those provisions,



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BOARD BUSINESS

that the overall intent of that language was to delay payment of fees until the time of the building permit.

Mark and I talked, you know, back and forth about some of these issues over time and we decided we needed to change the way in which we rewrite the resolutions. There's even a couple other issues we may tweak in my condition language.

This one says that two financial securities are dealt with specifically. One is the fee in lieu of parkland, and that law says those are now due before issuance of the first building permit. The resolution is also going to require that we change the resolution to put the dollar figure in the resolution itself. That's easy. It's arithmetic, multiply the number of lots or dwelling units by the per lot fee and put it in. I don't think that poses any problem.

There's also a requirement later in the resolution that says under those circumstances that the applicant, before it gets the plan -- I'm sorry. This relates to the landscaping. Let me talk about landscaping. The landscaping fee

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will be split into essentially installments. There's the initial deposit that will be required, and that's for the professional fees for inspection. That must be deposited prior to signing of the final site plan or subdivision. But the balance of the landscape fee will be due and payable upon issuance of the first building permit. The resolution also requires that the amount of the landscaping bond and inspection fee be recited in the resolution. So I'm going to have to make sure I work, you know, closely with Karen so that we have that number available to us at about the time of the resolution or very shortly thereafter so that the resolutions don't get delayed while we're trying to get the applicant to calculate the fee.

There is a certification when that happens that the applicant has to bring in, and this, John, your secretary will have to be doing. They have to sign the certification when they come in to have plans signed that shows those appropriate fees, the installments have been paid.

MR. FOGARTY: Mike, on projects that

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BOARD BUSINESS

are phased, all right, when they get their initial building permit is that -- will the fee include the entire project or just the phase, that first phase or second phase or whatever?

MR. DONNELLY: It says -- I think it answers the question. It says for recreation fees, the payment of recreation fees in lieu of parkland shall be deferred from before signing of the final site plan or subdivision by the Chairman to a point in time prior to issuance of the first building permit for a building or structure in the site plan, subdivision or phase thereof. So I think that would mean, the way I'm reading it, that even if it's phased, the entire fee would be due before the first building permit. Not to say we couldn't word our resolutions otherwise as we often have, but the way this is written it would be trying to say before the first piece.

MR. CANFIELD: I met with Mark and Jim and also a board meeting with respect to that. The conversation and the logic was that in a phased project there is criteria for each phase.

So to answer your question Tom, the

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intent was for the fees scheduled for that phase. Typically when we phase projects we're specific with what is to be done, started and completed in that given phase. So we're talking about fees that would be --

MR. DONNELLY: I like your understanding. I'm not sure the language says that. I'll write a letter to Mark Taylor saying we discussed the issue, we understand it based upon a discussion with Jerry to intend that the fee due is the fee due for that phase. If we're incorrect in our understanding let us know, that way we're not going to be brought to task if we do it that way in our resolution.

MR. FOGARTY: I think that's the fair way to do it.

MR. MENNERICH: Another question. On the landscape where they pay half initially and the rest at -- I don't remember at what point. If that's spread out over a long period of time how does Karen know what dollar amount to put in for the --

MR. DONNELLY: That's why I questioned why we want to put it in the resolution. There

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is language that says if a period of time has gone by for the landscaping it has to be recalculated to represent values before the balance payment is made. That language is in there. The problem with that to me is if I'm the applicant I say yeah, but the resolution said it's a fixed fee. So I don't know why they want that number in the resolution but we'll do it.

MR. HINES: This is only for a two-year period.

CHAIRMAN EWASUTYN: July 16th to July 16th, two years from today.

MR. BROWNE: Doesn't the Town have to approve these amounts?

MR. DONNELLY: Yes. And it says that. It says both of those things. It says, "The amount of landscaping security in each phase thereof must be approved prior to the signing of the plat, and the Town may adjust said amount if during the period between approval and the proposed delivery of the performance security the Town's landscape architect recommends a change due to changes in the market price," et cetera.

MR. BROWNE: Before you can do the

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resolution --

MR. DONNELLY: We used to put the amount in the resolution and we would call it the amount recommended by the Planning Board and the Town Board would fix it. Because it wasn't always easy to know what the amount was, I took the amount figure out, and that seemed to be working but it must be causing other problems I'm not aware of because the Town Board clearly wants the resolution to recite the actual amounts.

MR. BROWNE: The assumption is they would approve --

MR. DONNELLY: I don't think they ever quarrelled with what the recommendation is. Since they control the purse strings of the Town, it's their responsibility.

MR. BROWNE: Thank you.

MR. DONNELLY: I'll make sure our resolutions dovetail with this, and I'll make sure I work with Karen.

CHAIRMAN EWASUTYN: At this point I think it's going to be an avenue for Golden Vista to come forward to have their site plan signed. Golden Vista I think started out in the late

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`80s. That's in Meadow Hill. There are a few others that are looking to get their plans stamped and signed so maybe they become more marketable. I don't really know.

All right. Anything else?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion that we close the Planning Board meeting of July 16th.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: A second by Joe Profaci. Roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 9:06 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.

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DATED: August 8, 2009