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STATE OF NEW YORK : COUNTY OF ORANGE VOLUME II
TOWN OF NEWBURGH PLANNING BOARD Pages 37-72

----- X

In the Matter of

LANDS OF STEINER
(2007-38)

Frozen Ridge Road & Stacey Lee Drive
Section 106; Block 2; Lot 2.2
AR Zone

----- X

CONTINUATION OF PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: July 17, 2008
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTTLE

----- X

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

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LANDS OF STEINER

MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of July 17, 2008.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

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

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

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MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

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

(Pledge of Allegiance.)

MR. PROFACI: Please turn off your cell phones.

MS. HAINES: The first item of business we have tonight is the lands of Steiner. It's the continuation of the public hearing for a nine-lot subdivision. It's located on the corner of Frozen Ridge Road and Stacey Lee Drive, it's in an AR Zone and it's being represented by Ken Lytle.

CHAIRMAN EWASUTYN: I think it's a two-lot subdivision.

MS. HAINES: Excuse me. I apologize. Two.

CHAIRMAN EWASUTYN: Ken Lytle.

MR. LYTLE: Good evening. Since our last meeting -- there were a couple issues that were raised at the last public hearing. One was

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the sight distance. The consultants have gone out and actually verified that.

One of the other issues was the drainage, possibly a wet spot on the property, and the consultants have looked at that also.

At that time also the consultants asked us to put a clearing limit line on the property to preserve as many trees as a buffer as possible. That's all been completed.

CHAIRMAN EWASUTYN: At this point I'll turn to the public for their comments. Is there anyone here this evening for the continuation of the public hearing for the lands of Steiner?

For the record would you give your name and your address.

MR. BENNINGER: My name is Dave Benninger, my family and I live at 45 Stacey Lee Drive.

First I'd like to say I'm honestly against, and I think I speak for most of the road, against the subdivision. It's nothing personal or against Mr. Steiner. I've only met the man once. I think he's a nice guy. When Mr. Zalanowski, the former owner of the home, he

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tried to do the same thing, I was against it then. I don't think it ever made it to the Planning Board because his neighbor was an attorney so he took care of it on a personal basis.

I did a little research, I don't know if I'm exactly correct, going back to the minutes of a 1986 meeting on this. What I found is this place was -- this particular lot was originally owned by Charlie Catanzaro, sold to Mr. Soto. At that time originally I guess they were going for approximately a twenty-four lot subdivision. I believe the Town Board ruled that -- didn't give them twenty-four lots, ruled that it could only be a twelve-lot subdivision and said that there has to be a private road there. I think part of the issue was the knoll there, they had to cut it down. I don't know if it was a cost issue or more the Planning Board. Basically what I found is that on that document it says that this land is not subdividable. I believe that was made by the Planning Board in June of '86. I'm not positive. I was under -- you know, I was under the assumption that these things don't get

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overturned unless there's extenuating
circumstances, like they bring in Town water or
something else like that.

My vote, and I think most of the people
on the road think because of that reason, safety
issues, drainage issues -- I know -- I mean I
understand now, I know it meets the drainage
codes, I know it meets the sight distance codes,
I understand you guys have criteria. I think it
should be looked at a little more carefully on an
individual basis. You know, I understand you
guys have to follow your guidelines.

I sent a letter to the Board, I'm sure
most of you have seen it. If you do decide to
approve it, I've got a bunch of -- I won't get
into the details but a bunch of requests that I
think should be -- you know, at least the
engineer should look at and, you know, it should
be addressed, things such as French drains,
screening for the neighbors, you know, fixing the
road, the private road that's going to get
damaged and, you know, things like that.

That's all I have at this time. Thank
you.

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CHAIRMAN EWASUTYN: We're here this evening discussing the continuation of the Steiner subdivision. Mr. Benninger had some comments. Is there anyone else here this evening who has comments?

Would you give your name and address.

MR. CORWIN: I'm Jim Corwin, 60 Stacey Lee Drive. I wasn't at the first meeting because I had a scheduling conflict but it was my understanding that you guys were instructed not to address any private deed restrictions in your decision, and I know that one of the residents had asked you in writing for where that had come from and had not received any reply from you guys. Can anybody tell me where that comes from?

CHAIRMAN EWASUTYN: Mike Donnelly.

MR. DONNELLY: Yes. I had written a letter to the Board that outlined two cases in New York's Court of Appeals that say that the issue of private deed restrictions is separate and apart from the planning board's role and responsibility in the review and approval of a land use application such as this subdivision. I thought there had been a Freedom of Information

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Law request, and although that letter was -- many of those letters are often given under the protection of the attorney/client privilege, the Board had discussed releasing that letter if such a request was made. I don't know what happened with it.

CHAIRMAN EWASUTYN: The FOIL request was never filed.

MR. CORWIN: All right. So basically I mean it's our road and we have no say in it? I mean you guys can say yeah, you can build a house there even though obviously he's doing something that's against a document that's filed? I mean when I bought my house I had to sign off, I had to initial each page of those deed restrictions, and now somebody can just come in and we have no power, no say.

MR. DONNELLY: That's not really what I said or what my letter said. I said they're separate issues. Your rights to enforce whatever -- your options to enforce whatever rights you have under the agreement are private issues, they're not planning board issues. So whatever rights that recorded instrument gives to you you

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can pursue.

MR. CORWIN: Okay.

MS. KAHABKA: I'm confused. Does that mean --

CHAIRMAN EWASUTYN: Ma'am, can you give your name and address?

MS. KAHABKA: I'm sorry. Sue Kahabka, 46 Stacey Lee Drive. I'm confused about what you just explained. Does that mean we have to go to litigation to enforce the deed restrictions?

MR. DONNELLY: There are various ways of pursuing your rights. You may be able to persuade the developer that if you commence that litigation he would be in such a weak position that he'll throw in the towel. I have no idea. That's for you to discuss with your attorney.

MS. KAHABKA: Okay. Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

MR. CUTLER: Lee Cutler, I live on that road also. I spoke the last time so I don't want to repeat what I said. I thought the meeting started at 7 o'clock. It seems some things went on before I got here.

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I have not heard anything that addresses the reality of the safety concerns with that blind spot right there with the children that live in the Town. I want to go on record a second time to this Planning Board to appeal to your conscience that there are children, more children moving into the neighborhood and to put a road exactly at that spot is asking for a tragedy. I just want you to know that that's something that is on record here, and secondly that we will pursue as part of our further actions.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Dina, you have a letter that was asked to be read.

MS. HAINES: "July 15, 2008. Mr. John P. Ewasutyn, Chairman, Town of Newburgh Planning Board, 308 Gardnertown Road, Newburgh, New York 12550, regarding lands of Steiner subdivision request. Dear Mr. Ewasutyn, my name is John Kahabka and I reside at 46 Stacey Lee Drive, Newburgh, New York 12550. Unfortunately I am

1
2 unable to personally address the Board at the
3 scheduled meeting to be held on July 17, 2008 in
4 a matter of importance to all the homeowners of
5 Apple Knolls Estates. I wish once again to
6 provide written comments regarding our request
7 for approval from the Town Zoning Board to
8 subdivide an existing lot, lands of Steiner, as
9 shown on the tax map as Section 106; Block 2; Lot
10 2.2. I would appreciate this statement being
11 entered into the public record as well as being
12 read aloud by the secretary at the meeting. The
13 following comments are to augment those that I've
14 previously presented to the Board. Again I wish
15 to state for the record that I am opposed to the
16 subdivision of the referenced lot. I have
17 reviewed the engineering drawings, and based upon
18 the drawings offer the following comments and
19 observations for consideration. At the last
20 meeting sufficient concerns were raised on the
21 limited sight distance of the proposed driveway
22 entrance as related to the crest of the existing
23 road so that the Board deferred a decision on
24 approval pending an additional review by the
25 Board's traffic consultant. Not knowing in

1 advance the result of this additional
2 investigation, I would like to reiterate my
3 concern that the position of the driveway as per
4 the existing engineering drawing poses an extreme
5 safety concern for both pedestrians and vehicle
6 traffic. While the minimum requirement for line
7 of sight may be met, I urge you to consider that
8 both the DOT and NHSA distances are in fact
9 recommendations or guidance values, they are not
10 cast in stone requirements. Both rely on
11 factoring in or interpretation of existing site
12 conditions into a recommended decision. While I
13 believe the Town's traffic consultant has made a
14 correct decision based upon the stated minimum
15 sight requirement, I feel they have erred in
16 their determination based upon seasonal
17 conditions. These conditions are in fact the
18 factor which was to blame for the past child
19 pedestrian incident at this very location.

20 Seasonal distances and sun glare are only evident
21 in the season they occur. Sun glare conditions
22 in January and February are far different from
23 those observed in June and July. I do not want
24 another incident to occur on this road. If the
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determination is made that the subdivision is approved, will the Town by approving the change accept all liability in the event of a vehicle accident or worse a pedestrian accident? After all, it would be due to the Town's decision, not the collective decision of the homeowners who clearly have stated their opposition. Surely you can agree that because Stacey Lee is a private road and that all homeowners by written agreement are responsible for incidents on the road, in fact we are required to carry private liability insurance, that the risk factor will rise dramatically resulting in increased insurance premiums. This increased risk and subsequent rise in premiums is an unfair burden on the homeowners because of the Board's decision. Next I would bring to the attention of the Board the lot size as stated on the drawing labeled two-lot subdivision, lands of Steiner, lot layout drawing, job number 26062-TST, sheet 1 of 3. It is my understanding that the minimum lot size is 40,000 square feet and that the referenced drawing states the size at 40,459 square feet or .93 acres, barely over the stated requirement.

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While within the requirement I question the accuracy of the drawing as we are only looking at a compliance factor of 459 square feet. An error in one or two minutes or even seconds on the survey could result in the lot being undersized. In fact, the only way the lot achieved compliance with this requirement was to include a small buffer strip affronting Stacey Lee east to Frozen Ridge. This strip is virtually isolated from the main portion of the lot and where the proposed dwelling will be located. Realistically the lot falls short of the minimum size requirement. The only goal here to remove the existing landowner for the homeowners agreement which all twelve homeowners signed and agreed to when purchasing a lot or home. Another issue that the drawing brings to light is the visual aesthetics of the proposed retaining wall that appears to extend from the west side of the proposed dwelling. In reviewing the specifications of the Dura-Lok products it appears the specific Dura hold standard unit is nothing more than large cast concrete blocks which are keyed to interlock. Clearly large gray blocks of concrete are not

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compatible to the character of the existing homes. This product appears to be suited to large scale commercial or industrial applications, not residential ones. Given the reduction in values we are currently experiencing based on the state of the economy, large concrete blocks that can clearly be seen from the road will only further reduce the values of the surrounding homes and in turn reduce the taxes collected on them. Site drainage remains a concern not only during construction but afterwards as well. The existing site plans call for the site to drain directly onto the existing shoulder of the road. This road has no swales, ditches or driveway culverts to direct runoff. We experience icing conditions all winter long given the road's orientation from east to west. Unless the increased sheet flow from this developed property is properly directed to a currently non-existing collection system, this situation will be worsened dramatically. As the Town provides no services to the residents of Stacey Lee, we will be left having to increase the funds expended on salting and sanding. Again, this is

1 an unfair burden to the existing homeowners.

2 Drainage and runoff issues must be properly
3 addressed not only in terms of the subdivided lot

4 but must also include off-site impacts. I

5 believe that is a key fundamental of the SEQRA

6 process. Regarding lot development and

7 construction, at the last meeting I posed the

8 question as to why the existing homeowners'

9 agreement (filed with the County) did not provide

10 sufficient protections to homeowners. The answer

11 I received was that the Board was directed by the

12 State not to consider these types of agreements

13 in the decision process. If in fact this is

14 true, then all other issues regarding the terms,

15 conditions and stipulations of the agreement

16 could be considered subject to review.

17 Conditions which require the use of natural

18 materials, size of the proposed dwelling,

19 prohibitions on fencing, time to complete

20 landscaping, et cetera could be considered

21 subject to interpretation, thus changing the

22 entire character of the development which in turn

23 will lead to lower property values and a

24 reduction in the tax base. If approved by the
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1 Board the ramifications are far reaching and must
2 be considered by all Board Members in reaching
3 their individual decisions. I am still awaiting
4 concurrence by Orange County on the Town's
5 position and will make that information available
6 to the Board. Again, as a private road the
7 existing homeowners have expended a considerable
8 amount of money in improving the road. I would
9 estimate well over \$50,000. We purposefully
10 waited to improve the road until all construction
11 on the approved twelve lots was completed.
12 Construction of the new home will utilize heavy
13 equipment and require deliveries of large, heavy
14 vehicles. We have seen the impacts of this type
15 of activity on our road in the past which
16 resulted in the breaking of the pavement,
17 potholes and dangerous driving conditions. There
18 is no reason not to expect the same conditions to
19 develop again during development and construction
20 of the proposed lots. If a positive
21 determination is made by the Board the Board will
22 have once again imposed an undue burden on the
23 existing homeowners. It is only logical that the
24 Town should be held responsible to repair and
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1 maintain the road based upon the Board's decision
2 in opposition to the existing homeowners. In
3 addition, I have a concern about statements made
4 by the Chairman at the last public meeting
5 related to the initial development of the Apple
6 Knolls Estate subdivision. Comments regarding
7 the initial developer's financial status, I
8 believe the statement was "Ed Soto was bankrupt",
9 along with a comment along the lines of "the
10 development was to have been for large luxury
11 homes" inferred that the existing homes are not
12 of a quality or standard that could be considered
13 upscale. I would argue that the development is
14 one of if not the nicest development in the Town.
15 Perhaps these comments were made in an effort to
16 sway the decision of the Board Members by
17 inferring that approval of the subdivision of the
18 lot in question would not adversely affect the
19 character of Apple Knolls Estates. I believe that
20 nothing could be further from the truth. In fact
21 approval of the subdivision request will adverse
22 impact the remaining homeowners by reducing
23 property values, impacting the fundamental
24 aspects of the existing homeowners agreement and
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by adversely impacting the visual characteristics of the neighborhood. Lastly, if approved by the Board I will recommend to the homeowners association and/or individual homeowners that legal action is taken against the Town and/or the Zoning Board as well as against the existing landowner. Sincerely, John M. Kahabka, 46 Stacey Lee Drive, Newburgh, New York 12550.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Hearing no further comments from the public, I'll turn to our consultants.

Pat Hines, Drainage Consultant.

MR. HINES: Pursuant to a request by the Board I went out and field reviewed the existing drainage conditions of the subdivision, we walked the entire site, and also the drainage course leading away from the site. We did find that there was an existing stonewall that we believe was on the property but wasn't shown on the plans. I requested that the applicant show that. It turns out the stonewall is on the

1
2 adjoining property.

3 There's a little depressional area at
4 the edge of this property and on the neighboring
5 property, which I believes is Grimes, that
6 collects runoff from this site as well as the
7 private roadway and the Grimes lot and any up-
8 gradient property. The flow then continues in a
9 westerly direction across two driveways where it
10 enters a culvert crossing under Stacey Lee Road,
11 discharging down a steep ravine area to a pond
12 that's on one of the lots down towards the
13 cul-de-sac, and runoff from that pond continues
14 in a westerly direction off the site and towards
15 some large DEC wetland areas.

16 The size of the project and the amount
17 of disturbance does not require the applicant to
18 institute stormwater runoff quantity control.
19 They have provided an erosion and sediment
20 control plan in compliance with the Town's
21 regulation. That's standard procedure for a
22 single-lot subdivision such as this.

23 In addition, I assisted Ken Lytle --
24 sorry, Ken Wersted with taking a look at the
25 sight distance which he will address.

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We asked that some additional topography be shown on the plans, and that has been done.

We noted that the applicant provided a twenty-foot buffer strip to an adjoining property from a gentleman that was here last time. I believe Mr. Pomarico was here last time and commented on that. A twenty-foot buffer has been added to the rear property line, a non-disturbance area.

With that the applicants have addressed our previous comments.

I was able to demonstrate to the Board at work session through a large aerial photograph the drainage issues on the site.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant.

MR. WERSTED: We had gone out and did two tasks with our site visit. The first was to verify the sight distance noted on the plans, which we did. There's approximately 238 feet sight distance looking back towards the hill. The requirement is 165. So the available sight distance is approximately 44 percent longer than

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is needed.

When we located the driveway in the field we had noted that the house across the street, 14 Stacey Lee Drive, has the driveway in the approximate same location such that the condition that would occur at this driveway relative to looking towards the hill also occurs to the existing residents across the street.

A second aspect that we looked at was the pedestrian safety relative to walking up towards the hill and over. Stacey Lee Drive is approximately twenty feet wide and if you were to have two cars going in either direction they pretty much would be taking up most of the road. So there was very little room for pedestrians and cars to kind of co-exist pretty much anywhere on the road. The difficulty with the hill is that you have difficulty seeing over the hill so you don't know if there's a car coming in the other direction. When you're further down Stacey Lee Drive you have the benefit of being able to see whether there's a car coming at you so cars or pedestrians can certainly move to the side of the road and go around them. You don't have that

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luxury at the hill where you're going up and over and coming down. That case is there today. It's going to be there with or without this subdivision.

My suggestion is to look at providing a center line stripe in that area of the road and widening the road to provide a refuge area for pedestrians to be able to cross over the crest of the hill and also accommodate cars going back and forth on Stacey Lee Drive. That would allow enough room for a car to stay in it's lane, go over the crest, and also allow pedestrians room to walk on the shoulder, whether that be gravel or whether that be paved. That would be at the discretion of the homeowners. If this project isn't constructed I still make that suggestion because obviously the incident that happened with the pedestrian happened without this development here and the potential for that to occur in the future still exists.

That was the extent of our review.

CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant.

MR. COCKS: We reviewed this project

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for compliance with the zoning and it does meet all zoning requirements.

There was just one problem with the bulk table. The maximum building lot coverage for the proposed lot is shown as 15 percent when it's supposed to be 10. That was our only issue with that. It does meet all zoning and it doesn't require any variances.

CHAIRMAN EWASUTYN: Ken Wersted.

MR. WERSTED: Another point that I remembered. Mr. Benninger said that -- had noted that there's a potential for road damage due to heavy equipment and so forth coming out -- being off loaded from trucks or trucks turning in to drop off equipment. I agree with those points. I don't know, and Counsel can speak more to that, what control the Board has but there's certainly -- there is the potential for a bulldozer, for example, being unloaded from a flatbed and damaging the road as it goes into the site. As Counsel will probably say, there's -- I don't think the Board has any control over that but there may be some rights that the homeowners have against, you know, the contractor or the property

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owner if that were to occur.

CHAIRMAN EWASUTYN: Mike Donnelly,
Planning Board Attorney.

MR. DONNELLY: The Town Code does not even include what was suggested in the letter, a bonding requirement for it's own Town roads. And in the event a Town road is damaged during construction, the Town can enforce its damage claim against the homeowner, and in some circumstances, either directly or indirectly, the contractor that did that. I think the same principles should generally apply here. One of the advantages is there is a homeowners group that monitors the road now and they can bring that claim in the name of the homeowners group, and I think we could add that charge at this particular lot. Though bonding can't be required, there are some reasonable conditions that can be attached. However, I think if they were attached they should be attached to all lots. After all, people that live there can bring in bulldozers to add an addition, to build a swimming pool or a whole host of other things. I don't know what condition could be unique to

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this that wouldn't apply equally to the other lots in the subdivision.

If I understand correctly there are still lots to be constructed. Am I wrong on that?

MR. HINES: There are vacant lots there, yes.

MR. BENNINGER: I think only one. There's only one.

MR. DONNELLY: I see it as essentially a private issue. If there's some condition that can be attached, but I don't know what could focus on this issue that wouldn't be unfair to singling out this one owner when nobody else has been subjected to that condition.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: Mr. Benninger, in your letter there you mentioned about the traffic and the safety. Do you own a landscaping business out of your house?

MR. BENNINGER: Yes.

MR. GALLI: Does that generate a lot of traffic?

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MR. BENNINGER: I don't run it out of my house.

MR. GALLI: When I was first up there I saw landscaping equipment and trucks.

MR. BENNINGER: I park my own personal vehicle which is a letter truck but my place of business with all my equipment is stored at 190 South Robinson Avenue, Newburgh.

MR. GALLI: Nothing further.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I thoroughly understand the concern for safety, and unfortunately as has been mentioned this Board really can not address that other than the sight distance, and it's already 44 percent more than the requirements are.

I also in the past have lived on a private road and I understand the issues with funding and those kinds of things, repairs and what not. But again, one of the things that this comes down to is in making a decision to live on a private road you typically have to acknowledge that and accept those additional issues. It's hard but it's the way it is. I can't see how

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this Board can do anything more than what our code demands and allows. It's a hard one to look at.

CHAIRMAN EWASUTYN: Thank you. Ken Mennerich?

MR. MENNERICH: I think in discussion of this at our work session there was some discussion that we should look back at the minutes of the meeting and get the actual minutes of the meeting back in, what was it, '86. I think we should do that and take a look at that before we make any decisions.

CHAIRMAN EWASUTYN: Okay. Joe Profaci?

MR. PROFACI: I have nothing further, John.

MR. DONNELLY: Let me address some of the issues that were raised. Some were talking about obviously drainage and sight distance. I take it the Board would wish to follow the recommendation that Ken Wersted has made regarding adding a widened area of the roadway and pedestrian segments and a line down the middle of the road to reduce the possibility of danger to motorists and pedestrians on the

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roadway.

Both of the letters that were received spoke of the liability of the Town. I gave the Board some advice on that issue during the work session.

We talked about the road bonding issue. There was a claim in one of the letters that the share of -- the respective shares of maintenance were going to be changed by the subdivision, and certainly I think your resolution will need to make sure that that isn't the case but I don't think that that's what is proposed here. I'm told that the original subdivision had twelve driveways going onto Stacey Lee Road. The lot that is now being subdivided, though it's shown as onto that road, it actually carried it's driveway out to Frozen Ridge Road. We are now with the new lot returning the twelfth driveway to that road. There is already one share, as I understand it, and I will need to see the private roadway easement and maintenance agreement before final approval, but the share will remain and for the first time there will actually be what was originally approved, and that is driveway access

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from this lot onto that roadway. I think we need to make sure in the resolution that that is in fact the case. And when you act on it I have language proposed, if you're inclined to approve it, in the resolution of approval.

For what it's worth, the allegations of the quoting of the Chairman are I think misplaced. We've reviewed the minutes during the work session and what was attributed to the Chairman was not in fact what was said but we'll stand on the minutes and that's why we have them.

The biggest issue was the claim that the map note which does suggest that there will be no more than twelve lots and twelve houses with access onto Stacey Lee Road, whether that originated as a Planning Board condition or whether that was a developer offered note that was not a requirement of the Planning Board. I think it's important that the Planning Board see the minutes of 1986 to learn the origin of the restriction. It is not to say that you couldn't change the restriction, but I think before you alter it or release it you should understand your reasons for imposing it when you did, and if

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you're inclined to release it what rational of the facts before you justifies the change in position. So my suggestion to you was that you obtain the minutes of that meeting and that you review them before you take action on the proposal. Given that that can be done within the 62-day time period, that's the outside limit for action following closure of the hearing, I don't see any reason why you couldn't close the hearing this evening.

CHAIRMAN EWASUTYN: Thank you, Counsel.

Any comments from the public before I move for a motion to close the public hearing? Mr. Benninger.

MR. BENNINGER: I might be wrong but -- I wasn't there in 1986 when this Planning Board convened about that but it was this -- from what I hear is it was this Planning Board who made that decision to not have the twelfth driveway go on Stacey Lee because of safety, and they made it come out on Frozen Ridge Road. So if you want to overturn that decision, then that's up to you. It wasn't a choice of the homeowner. The homeowner wanted it on Stacey Lee, you guys

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forced them to put it on Frozen Ridge. That's all I have to say about that.

MR. CORWIN: Jim Corwin again. I just want to say I appreciate what Mr. Browne said about living on a private road and assuming the responsibilities and the restrictions. And just for the record I would like to state that we all do that, it's him that is not.

CHAIRMAN EWASUTYN: Him meaning who, sir?

MR. CORWIN: I'm sorry. Him --

MR. LYTTLE: Not me. Mr. Steiner, the owner?

MR. CORWIN: Mr. Steiner. Sorry. Mr. Steiner.

CHAIRMAN EWASUTYN: Any additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to close the public hearing for the two-lot subdivision for the lands of Steiner with the understanding that Dina Haines will research the minutes of the action that was taken for this subdivision in the year 1986 to find the course

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of decision as to whether it was the Planning Board who moved for that restriction note being placed on the subdivision map and/or if it were a condition that the developer at the time had requested be placed on the map, and in fact if it maybe were a Town Board decision. And also as part of that I would set this up as a Board -- would the Board prefer to have this as an agenda item on the -- Dina, what's the meeting following the 7th? Do you know what our next meeting is after the 7th of August?

MS. HAINES: Not off the top of my head.

MR. DONNELLY: The 21st.

CHAIRMAN EWASUTYN: Then it would be the -- would the Board like to set this up as an agenda item for the 21st of August or do it under Board business. Frank?

MR. GALLI: I'm sorry, John. Really I don't think there's any difference if we do it under Board business or put it on the agenda.

MR. LYTTLE: Excuse me.

CHAIRMAN EWASUTYN: I'll move to set this up for an agenda item for a decision on the

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21st of August.

MR. LYTLE: Excuse me, Mr. Chairman. I also want to point out if they're going to research the paperwork on the '86, there was also a subdivision/lot line change done on two lots in the rear of this back in '04.

MR. DONNELLY: Anything that you want to supply us with that will help us understand the history of what happened.

MR. LYTLE: That was prior to that. And actually back in '04 the two lots in the rear actually did have a lot line change/subdivision done. I believe they put a pond on one property.

MR. DONNELLY: We would appreciate receiving that information.

CHAIRMAN EWASUTYN: I have a motion on the table.

MR. GALLI: I'll make the motion.

MR. PROFACI: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

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LANDS OF STEINER

roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried. Thank you.

Dina, you'll make a note this will be
on the agenda for the 21st of August.

MS. HAINES: Yes.

(Time noted: 7:35 p.m.)

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

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

DATED: July 25, 2008

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

----- X
In the Matter of

EXETER BUILDING CORP.
(2002-26)

South side of Route 17K
Section 89; Block 1; Lot 1.1
R-3 Zone

----- X

CLEARING & GRADING PERMIT

Date: July 17, 2008
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DAVID HIGGINS & RICHARD GOLDEN

----- X

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

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MS. HAINES: The next item of business we have tonight is the Exeter Building Corporation. It's here for a clearing and grading. It's located on the south side of Route 17K, it's in an R-3 Zone and it's being represented by David Higgins.

MR. GOLDEN: Good evening, Mr. Chairman and Planning Board Members. My name is Richard Golden from the law firm of Burke, Miele & Golden. Here with me is David Higgins from Lanc & Tully.

We are here with respect to a Chapter 83 clearing and grading permit. This particular clearing and grading permit is in connection with the subdivision/site plan approval that was previously approved by this Board, and all of the work that's contemplated in there is the same work that was already reviewed in great detail by this Board, had a public hearing by this Board, had done SEQRA with respect to this Board and came up with a negative declaration.

The only work that's really different in this regard is simply the stockpiling. It wasn't addressed one way or the other with

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2 respect to the main plan but this plan clearly
3 anticipates that there will be some stockpiling
4 of the grading -- of the material that was graded
5 as part of this clearing and grading permit.

6 We believe that there is no public
7 hearing necessary with respect to this
8 application because of all the review that this
9 Board fairly recently did in connection with this
10 application. This is not something that is new
11 work that you need to hear about. You've already
12 heard the public's comments with respect to this
13 particular plan.

14 I think it would probably make sense
15 for Mr. Higgins just to briefly identify what
16 items may be -- have developed since the last
17 time we were before you on September 20th of 2007
18 when we received the site plan approval because
19 we have identified in connection and following up
20 of one of the conditions of that approval that we
21 now have a phased plan, and this clearing and
22 grading permit is addressing portions of that
23 phased plan that we were asking for approval on
24 with respect to this clearing and grading permit.

25 MR. HIGGINS: Good evening. As Rick

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indicated, as part of the original site plan approval that was granted one of the conditions was the preparation of the phasing plan. I know that we had notes on the original -- on the map that was approved that basically broke down the phasing but we've gone through and colored this. Can you see from the angle that you have?

Basically we had a phase I which we actually had broken down in terms of construction into sub-phases. Phase I-A, which is the red coloring here, is the road entrance off of 17K, and the main road is this section through here. So phase I-A would essentially be these units in here, and that's six buildings which total twenty-four units. The remainder of phase I is the clubhouse which is over here, the pool and the clubhouse, and then the remainder of the units along this side. That totals thirty-six units.

The remaining phases after this is completed, phase II which would be a continuation of the road basically through here, and that's a total of thirty-two units associated with phase II.

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Phase III would be the southern portion of the property which would be the extension of the road and then forty-four units.

As part of phase I we would be required to remove the existing water storage tanks that right now are located here on the Town of Newburgh property right over here, and that was a condition of the water district extension that the Town Board approved. We had spoken with the town engineer, and what they're looking to do is to have us remove these two steel storage tanks which are in a state of disrepair and no longer being used, remove those from the property. That's basically it.

What we did with the construction phasing, and this is the grading, clearing and erosion control application that we currently have before the Board which is the subject of this meeting tonight, is for essentially the grading and clearing necessary for the construction of phase I. We've actually lumped phase I-A and B together for the purpose of this application. Essentially what would be done is we would utilize the existing driveway, which is

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located over here, come into the site and basically stabilize the entrance. We would start rough grading the road through the site. We've done the necessary volume calculations for cuts and fills and clearing and we've shown where the material would be temporarily placed for the purpose of the grading and clearing associated.

We have drainage facilities shown which are identical to the locations that were on the site plan. Essentially these are temporary sediment traps during construction. As construction is commenced and completed and areas are restored, essentially these would be converted to the permanent bio-retention facilities that's part of the original approved site plan.

CHAIRMAN EWASUTYN: You received a copy of Pat Hines' comments?

MR. HIGGINS: I did.

CHAIRMAN EWASUTYN: Do you want to speak to us following through his outline and responding to these comments?

MR. HIGGINS: Certainly. The first comment had to do with whether or not a New York

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State DOT permit would be needed for the driveway. It was our belief that as -- the driveway is existing, which is over here, this was an existing driveway that was there. The house that was here is no longer here. The driveway is still there. It's a gravel driveway. It was our opinion we did not need to get a DOT permit for that driveway. I don't know if that's consistent with the Board's belief but that's how we interpreted that.

The second comment had to do with a silt fence along the west disturbance area, the buffer. I believe, Pat, you're referring to this line here.

MR. HINES: Yes. I believe there's a silt fence symbol in there somewhere but there's a lot of other symbols in there it's getting lost in.

MR. HIGGINS: It is. If you look very, very closely you'll see it. It does kind of get hidden behind some of the dashed lines and what not. The intent was to have the silt fence there to limit the disturbance line, and there's also an orange construction fence which basically

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designates out the limits of disturbance along that area.

I think the third one and the fourth one were sort of the same type of issue, and it related to the New York State DEC requirements, the regulations that state you can't have any more than five acres of the site disturbed at any one point in time. We do have notes on the plan that indicate no more than five acres of the site is to be disturbed, and any disturbed areas that are left undisturbed for a period of fourteen days need to be seeded, mulched and stabilized with vegetation. The two comments in the letter I think are just looking for some clarification, some -- I think maybe an increased note somewhere on the plans that state maybe that the area should be limited to three acres so as you move on to the next two the acreage behind you is I think being re-vegetated. Is that what you were getting at, Pat?

MR. HINES: Yeah. There's several items combined in there. One of the concerns that we have during all clearing and grading applications is how long between the completion

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of the clearing and grading ends and the beginning of the actual construction recommences. This will look not unlike a quarry for some period of time and we want to make sure that the sites are reclaimed to some condition should construction be delayed six months, a year, two years, five years. So we're looking for some level of detail on how much topsoil that's going to support vegetative growth can be placed on there should the project be delayed. Obviously there's a stabilizing seeding for two weeks. If your project is out another year, or two, or three, or market conditions or permitting conditions don't permit you to continue to construct, the Board is interested in having this become revegetated, not look like it's been disturbed and left in that disturbed condition. What we've done on other projects was require the placement of, it may be six inches or some other number of layer of topsoil to be placed on top of there, and that revegetates it such that it can support growth into the future until the project comes online. If the project continues to progress in that timeframe it's not an issue but

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certainly it could be an extended period of time between the clearing and grading shown here and the actual construction.

The other --

MR. GOLDEN: If I can just interrupt for a second. Do you have a particular period of time in mind that if in fact construction is suspended for a period of time then these provisions would kick in?

MR. HINES: We would be willing to discuss that. I don't have a period of time in mind right now. Certainly I can't see spreading topsoil over the whole site if it's going to continue on. If there is an extended delay I think it needs to be reclaimed, for lack of a better term, there. But I would be willing to work with your consultant there to come up with that, along with Karen. She's involved usually in this revegetation process.

The other concern is we worked out in the past some larger clearing and grading permits that we've issued was that rolling three acres so that no more than three acres is disturbed at one time and that areas are reclaimed as work

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progresses in order to stay under that five acres. Obviously there's a timeframe between disturbance and revegetation that needs to be addressed so that you're within your DEC permit and that work can continue to progress, and we've used that three acres disturbance. It's been fairly successful on a couple of the projects. It kind of kept the contractors in line with what the requirements of the clearing and grading permit and the DEC permits incorporate.

My last comment is a standard reclamation security that we've required for all disturbances outside the approved site plans of the \$4,000 an acre, which is roughly a number the DEC uses on consolidated mining operations to assure that the sites are restabilized and revegetated.

MR. GOLDEN: This is -- you're talking about something in addition to the bonding that's required?

MR. DONNELLY: That's part of the bonding, the restoration portion.

MR. HINES: Restoration for the

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clearing and grading.

MR. GOLDEN: Per acre? You're talking about per acre of the disturbed areas?

MR. HINES: Correct.

CHAIRMAN EWASUTYN: How close are we to an understanding as to what's being shown on the maps tonight and how adequate is that?

MR. HINES: I think that certainly myself and Dave Higgins can work out these technical issues as we move along. I don't know if the Board wants to see it again or authorize me to work with the applicant's representative to resolve that. I think Karen needs to be involved somewhat on the language for the topsoil placement. I'd be willing to discuss a timeframe for the stabilization seeding versus a reclamation of the site if that needs to be undertaken.

CHAIRMAN EWASUTYN: Are these technical in nature, the outstanding issues?

MR. HINES: I believe so, yeah.

CHAIRMAN EWASUTYN: Okay. And relative to the fact that we reviewed the site plan and we've taken this under consideration, the review

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of the site plan.

MR. HINES: When we reviewed the site plan I always envisioned that construction would commence and continue on through the site. We have a little bit different animal here. Construction can commence and maybe stop for a period of time.

MR. GOLDEN: Or continue.

MR. HINES: Or continue based on the permitting and marketing conditions I guess. The grading shown roughly corresponds in the roadway areas to the grading on the approved plans. There are two areas, the 7,000 cubic yards of topsoil stockpiled and a 20,000 cubic yard overburdened stockpile to remain on the site for some period of time so that those portions, probably fifteen or twenty percent of the site grading is different than what was shown on the approved plans.

CHAIRMAN EWASUTYN: Do you find that to be significant?

MR. HINES: Those stockpiles are large and if not properly maintained the erosion control and revegetation could become problems.

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MR. GOLDEN: But there's nothing preventing -- sorry.

CHAIRMAN EWASUTYN: Go right ahead.

MR. GOLDEN: There's nothing preventing that stockpiling in the approved plans. We're continuing to go on.

MR. HINES: Certainly not.

MR. GOLDEN: Okay.

MR. HINES: It has to do with how long they're going to stay there.

MR. GOLDEN: Right. Our intention clearly is we're going to be continuing on with this. There's no doubt about that. I can understand wanting to have something in there in the event something unforeseen happens. We don't have any problem with that.

MR. HINES: We have experiences with those unforeseens happening on these sites.

CHAIRMAN EWASUTYN: Ken Wersted, do you have an opinion on the need -- the possible need for a DOT highway work permit for an activity of this scale or with the existing driveway as shown, the permissibility by the DOT?

MR. WERSTED: My only concern there is

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just the breaking up of the existing driveway, you know, probably being only a couple inches just for passenger cars to go in and the use of heavy equipment there. I think reaching out to DOT to touch base with them to see whether they would like that stabilized construction entrance to come all the way out to, you know, the road would be an easy enough call and that will give everyone direction as to whether that's really needed or not or whether DOT is accepting of using the existing residential driveway as an access into the site, and then where the site turns into, you know, dirt, you know, having the stabilized area there. Their biggest concern is probably going to be the tracking of debris from the site out onto 17K.

CHAIRMAN EWASUTYN: Is it your intention to notify the DOT of this activity?

MR. GOLDEN: Yes, we'll notify the DOT. Absolutely. And certainly if the DOT says we want you to get some type of approval from us or we want to condition your activities on this, we'll follow whatever the DOT says.

MR. DONNELLY: I thought we could add a

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condition that says this approval is subject to issuance by the New York State Department of Transportation of a construction access permit or communication from that agency that such an approval is not required.

CHAIRMAN EWASUTYN: Okay. Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I just had basically the comment that Pat made about the timeframes and what not. Understanding the situation that we're in with the litigation, things could stop, could continue. We don't have the timeframes. We know your intentions. We've heard that from other applicants in other situations. Those intentions sometimes don't happen. We need to move the process along, and that's what we're trying to do, but at the same time trying to protect things in case they don't happen in a timely manner. That's important to us.

MR. GOLDEN: It's important to us as well.

CHAIRMAN EWASUTYN: Ken Mennerich?

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MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No thank you, John.

CHAIRMAN EWASUTYN: Mike, would you present to the Board the conditions?

MR. DONNELLY: I had given you all a draft resolution in advance. I made some changes to it and added some conditions.

The first condition remains the same, they'll need to receive a letter from Karen signing off on the items noted in her memo of July 9, 2008. We'll now need a new condition too, which is a sign off from Pat Hines that the stabilization plan, the rolling three acres, the items he discussed in his memo of July 10, 2008 as well as this evening have been addressed to his satisfaction. The condition that was number 2 and is now 3 I had revised after I sent it to you because I thought it was somewhat confusing. It seemed to suggest that the same other agency approvals that were required for site plan are required for the clearing and grading permit and that was not the intent. So the language now reads that all work carried out under authority

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EXETER BUILDING CORP.

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of this permit shall, in so far as applicable, comply with the conditions and limitations of the original resolution of final site plan and ARB approval, a copy attached hereto, as if those conditions were set forth here and at length. This shall not require that the other agency approvals required for site plan approval, except as set forth herein, and I list below the DEC -- the potential need for a DEC and DOT permit, be obtained before clearing and grading work may begin. The next condition relates to the need for a DEC permit if the applicant is going to disturb greater than five acres, and I believe if they stay within that they will not need that permit if I understand the regulations correctly. The permit will require that but it's not an individualized permit.

MR. HINES: They would seek a waiver for the five acres as long as they start before September 8th, otherwise this Board will issue the waivers.

MR. DONNELLY: The new condition 5 is what I read to you before regarding the DOT permit or sign off. I believe all of the other

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EXETER BUILDING CORP.

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conditions are unchanged. They're generally the standard conditions you've used in clearing and grading permits. They reference the requirements of Section 83-10, 83-11 of your Code. The permit has a duration of one year from issuance under Section 83-8 of the Code, and there's a requirement of a performance and restoration guarantee as required by Section 83-12. I've added to that here, because some of the work has to do with roadways, that to the extent that the work includes the commencement of improvements such as roads, utilities, drainage facilities and landscaping, the applicant shall also be required to post the inspection fees set by the Town Board pursuant to Code. Those are all Town Board issues. They need to take Pat's recommendation to the Town Board and they'll set the bonding amounts.

MR. GOLDEN: The only comment that I would have on that, Mr. Donnelly, is I guess what is now 6-C, that was submitted along with the application process, it is in fact before the Planning Board, a signed authorization by the owner with respect to allowing access to the site

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EXETER BUILDING CORP.

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to perform appropriate --

MR. DONNELLY: That condition simply lists that those are the requirements that apply. If you've provided it, then that's fine.

CHAIRMAN EWASUTYN: Having heard the conditions of approval in the resolution presented to us by Mike Donnelly for the issuance of a clearing and grading permit for the Exeter Building Corp., I move for that motion this evening.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Aye. Motion carried.

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EXETER BUILDING CORP.

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MR. GOLDEN: Thank you very much. I appreciate your time.

(Time noted: 7:56 p.m.)

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

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

DATED: July 25, 2008

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

----- X

In the Matter of

NEWBURGH RETAIL DEVELOPERS
(2005-33)

Route 300 & Route 17K
Section 97; Block 2; Lot 34
IB Zone

----- X

SITE PLAN & SIGNAGE

Date: July 17, 2008
Time: 7:56 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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NEWBURGH RETAIL DEVELOPERS

MS. HAINES: The next item of business we have tonight is Newburgh Retail Developers which will not be reviewed tonight. I will read an e-mail from Kevin Down dated today, July 17, 2008. "Members of the Planning Board, I am writing on behalf of the applicant, Newburgh Retail Developers, L.L.C. We respectfully request that we be removed from tonight's agenda and rescheduled for the August 2008 meeting. We received written comments from two of the Town's consultants, engineer and landscape architect, yesterday, July 16th. The applicant believes it is best to meet with and address the consultants' issues raised in the consultants' memoranda before it appears before the Planning Board. Thank you for your consideration. Respectfully submitted, Kevin M. Down, Newburgh Retail Developers, L.L.C."

CHAIRMAN EWASUTYN: I'll move for a motion to set this up for the August 7th meeting.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

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NEWBURGH RETAIL DEVELOPERS

Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself aye. So
carried.

(Time noted: 7:57 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.

DATED: July 25, 2008

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

----- X

In the Matter of

MID-HUDSON II HOLDING COMPANY, LLC

North Plank Road
Section 80; Block 7; Lot 77
B Zone

----- X

SITE PLAN

Date: July 17, 2008
Time: 7:58 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

----- X

MICHELLE L. CONERO
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MS. HAINES: The last item of business we have tonight is Mid-Hudson II Holding Company. It's a site plan located on North Plank Road, it's in a B Zone and it's being represented by Anthony Coppola.

MR. COPPOLA: Thank you, Dina. Good evening all. This I think is our third Planning Board meeting for this project. Basically what we'd like to do tonight is two things, go through the site plan review and then the architectural review. I'll do the site plan first and see how that goes.

Basically since the last Planning Board meeting all the major items on this site are the same as before. This is a one-story retail office building. Previously we had pulled out the front element of this building to allow an unobstructed view of the architecture, that's something that we presented at the last Planning Board meeting, kind of minimize the parking in the front of this building to basically conform to the spirit of the design review guidelines. This circular pattern of driving, that was the same previously with a drive-through and a passenger lane on the

1 side of the building. So all those issues remain
2 the same.
3

4 Basically what we did since then was
5 addressed a lot of the consultants' comments, got
6 some of our outside approvals, which I'll go into
7 in a second, and refined the architecture and
8 brought samples and did all that as far as the
9 elevations.

10 So I think I'm just going to kind of
11 skip to some of the main items from the comments
12 and then we can kind of go over that. DOT
13 approval, we finally received a concept letter
14 today after two years. So that came late this
15 afternoon. I have copies. We can get that to
16 the Board at some point.

17 We did receive outside user status
18 approval for a connection to the sewer system.
19 Again, that's being done with a force main on --
20 which is going to be created with a new easement.
21 We have to provide the Board with that, with the
22 signed easement. The intention is an easement
23 agreement through the adjacent properties here.
24 We do have the outside user status approval
25 letter from the City of Newburgh.

1 We looked at Jerry Canfield's comments
2 regarding the height of the building. He's
3 correct, the New York State, I think it's either
4 the Fire Code or the Building Code requires a
5 certain area in the front of the building if the
6 building is thirty feet high. To the top of our
7 peak is thirty-four feet, so we have to lower
8 that just over four feet. We're willing to do
9 that. We're not going to be able to conform to
10 the issues in the front here. I think we need a
11 thirty-foot setup area. We're not going to be
12 able to do that here. We'll lower the building
13 about four foot six inches and then we'll be in
14 compliance with that.

16 One major issue that Bryant brought to
17 my attention today with his comments is the total
18 number of parking spaces. My office
19 miscalculated that and in error we had shown ten
20 spaces in the rear here and numbered it as
21 thirteen. When we did the calculation, the
22 calculation is based on a hundred percent retail
23 at 150 square foot per parking space versus
24 office at 200 square feet per parking space. So
25 the total number of spaces if this were an

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entirely retail building is required to be twenty-seven. It's mislabeled here. We're actually in reality providing twenty-four. I went back and looked at previous site plans and the first site plan that we submitted actually had the three extra spaces in this triangular area over here. There's not much happening there on the site. The grading is pretty good over there. There's nothing as far as utilities or anything that really would prevent us from adding those three spaces back. So depending on which way the Board wants to go, we feel we can do that. Or as an alternative we can -- if there's a hundred percent retail for the building then those spaces could be added back. If the building is office or even fifty percent office, technically he doesn't need those spaces.

That's really -- that's really it I think as far as the site plan. Now I can go on to the building or talk about the site plan.

CHAIRMAN EWASUTYN: Let's stay on the site plan and then we'll go on to the ARB.

Mike, AJ had just discussed parking and what is required and what is proposed. Do you

1 want to discuss that?

2
3 MR. DONNELLY: One of the things you
4 had done when there's a mixed use and the parking
5 is not adequate, for the more demanding of the
6 uses, if that were a hundred percent, is place a
7 limitation something like not more than, and then
8 we'll have to fill in the number, X number of
9 square feet of space can be used for retail
10 purposes unless additional parking is required,
11 and that would mean the difference would have to
12 be office. We need to flag that because the
13 building department had that issue when suddenly
14 the owner of the property comes in, they have a
15 new tenant, what are they going to do. So either
16 the parking spaces are provided now for the more
17 demanding use of a hundred percent or the
18 limitation that would bring the retail down to a
19 level that would be consistent with the number of
20 parking spaces currently provided can be added to
21 the resolution. That would work.

22 CHAIRMAN EWASUTYN: Either Bryant or
23 Ken Wersted, we're discussing the necessary width
24 of the aisle servicing this project, what is
25 shown and what may be required. Bryant.

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MR. COCKS: I referenced Jerry Canfield but I'm pretty sure that even with the building height being lowered, I think it's still going to have to be twenty feet. I don't have the fire code in front of me but I'm almost positive.

MR. DONNELLY: I have his letter. It says buildings over thirty feet in height shall have an aerial fire apparatus access road with a minimum width of twenty-six feet in the immediate area of the building. It then says if the applicant's representative can display that the height of this building is less than thirty feet, an access road of twenty feet in front of the building is required.

MR. COPPOLA: We can do that. I mean the front aisle is eighteen. I would add two feet to that. I think I can lower the building by four feet, which is just the peak here, to the highest point of the roof, and then widen that two feet. I think I can keep everything --

MR. COCKS: I know on the Polo Club that one-way loop road was only eighteen. It's not specific that everything has to be twenty.

MR. HINES: That's residential.

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MR. COCKS: I thought with commercial everything had to be twenty.

MR. HINES: We'll check with Jerry.

MR. COCKS: I was almost positive anything with commercial had to be twenty all the way around. We're going to have to double check that.

MR. COPPOLA: We can definitely go twenty in the front.

MR. COCKS: Even if it comes in -- I mean unless it backs all the way out. I thought the whole way around was going to be twenty.

MR. COPPOLA: I don't think he's pulling a fire truck all the way around here.

MR. COCKS: I don't think he can.

MR. COPPOLA: I don't think he can either.

CHAIRMAN EWASUTYN: We're going to have to defer to a sign off from Jerry Canfield in reference to the proper design of the width of the interior road for the use.

You said you received a letter from the DOT today?

MR. COPPOLA: Yes.

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CHAIRMAN EWASUTYN: Do you want to circulate that. Ken Wersted went out in the field based upon the letter you received.

MR. COPPOLA: We met them two years ago out there, and after harassing them they finally gave us the letter.

CHAIRMAN EWASUTYN: Ken, essentially -- they didn't cc Zibbie on this. Ken, if you would just bring us along with this letter. Is this significant?

MR. WERSTED: Just to follow up on my conversation with DOT, I had e-mailed them. I received the transmittal, they were sending plans over to DOT, to Zibbie Zacharia and also to Richard Covett, and after she had reviewed what she had seen to date. She had mentioned that she had been out there a year, possibly longer, ago and noted that they talked about having shared driveway access with Monroe Muffler and that was preferred but that they would also approve a single driveway to the proposed site separate from Monroe Muffler.

As you know, when we were here last I provided a sketch of the shared access. I had

1 gone out in the field and also looked at that as
2 well. There are some grade differences between
3 where the proposed driveway is and where the
4 Monroe Muffler driveway is. It isn't so much a
5 grade difference from the alignment of the road,
6 Route 32, but more of the landscaped area between
7 the two parcels. As you travel east from Monroe
8 Muffler the grass and the vegetation there kind
9 of goes up in kind of a bulb type of fashion and
10 then it comes down in towards the site. I think
11 if you -- even with the driveway where it's
12 located you would either have to do some grading
13 or clearing of vegetation along the road because
14 it's pretty significant because of the grade and
15 also the vegetation in there. So with that and
16 with the grading that you already have to do in
17 terms of lowering one corner of the site and
18 raising up the other corner, I don't see the
19 grading in that corner between Monroe Muffler and
20 the site being, you know, above and beyond
21 reasonable. There would be grading needed there
22 to make that connection but I don't think it's
23 substantially significant. There isn't any type
24 of cliff there so to speak, so I think it is
25

1 possible.

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3 In addition, some of the other
4 comments, the way the sidewalk is proposed now
5 coming up to the property line, the way the
6 grading is proposed there now there's going to be
7 a pretty significant slope up there. I want to
8 say I calculated a 45 percent grade or something.
9 So ending the sidewalk there, either at the
10 property line -- basically coming to a wall of
11 dirt or they have to continue it over maybe to
12 Monroe Muffler's driveway.

13 So the other -- I mean the whole reason
14 for suggesting a shared driveway is just
15 proliferation of driveways along this section of
16 road from sites that are virtually, you know,
17 adjacent to each other. Opposite this site there
18 is a Mobil gas station which has two driveways.
19 They're slightly offset from the Monroe Muffler
20 and the proposed Mid-Hudson II driveways. So the
21 combining of the Monroe Muffler and the site
22 driveway would basically consolidate two curb
23 cuts, it wouldn't be introducing any additional
24 ones.

25 I could see in the future as the

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properties along this road come into play the extension of the sidewalk, you know, provides additional continuity through the area and then also connecting adjacent sites along the area.

So with that, you know, again I encourage the applicant to look at combining the two driveways into one. They would line up pretty much with your drive-through exit and would approximate the opening of the driveway curb opening for the Mobil station on the opposite side of the street. I would continue to offer that to the Board and the applicant.

MR. COPPOLA: I'll let Steve speak.

MR. MICHALSKI: I'm Steve Michalski, I'm the owner of the property. When this issue came up about a year ago or so I met with Monroe Muffler. They have a rep in Rochester. He took about six months but he came. I think it was last fall he came. There's a grade dropping off and they don't want to do it. They don't want to be involved. He said they're not interested. They have a business there and they are not interested. They're not going to do it. That's what he told me.

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CHAIRMAN EWASUTYN: Okay.

MR. WERSTED: If it can't be done then I would look to have an easement between this property and the next one. If Monroe Muffler ever were to come --

MR. MICHALSKI: In the future maybe if they sold it off.

MR. WERSTED: If they came up with a different plan, there would be the opportunity to combine the driveways there at that time.

MR. DONNELLY: You wouldn't need an easement because it's your own property but show the possible future connection with some lines.

CHAIRMAN EWASUTYN: Can you show that on your revised plans?

MR. COPPOLA: Sure. We'll just do that as a future --

MR. DONNELLY: Label it as that, yes.

CHAIRMAN EWASUTYN: Let's get back to the engineering items also.

Pat Hines as it relates to drainage.

MR. HINES: Our first comment mirrored Ken's comment regarding the sidewalk. It just ends and the grading would not be conducive for

1 anyone walking. That needs to be addressed.

2 We suggested comments from the DOT
3 which we received tonight.

4 I do believe you need an easement,
5 which Mr. Coppola had mentioned. There is I
6 think two easements required for your sewer force
7 main.
8

9 MR. COPPOLA: You're right.

10 MR. HINES: So that's something that
11 we're going to need submitted for Mike Donnelly's
12 review.

13 The plan sheets need to be coordinated.
14 SP-7 and SP-3 show two different locations for
15 the pump station and force main. Whichever one
16 of those is going to be the location needs to be
17 clarified.

18 We asked the engineer provide us with
19 additional off-site topography and topography to
20 the rear of the lot, which was lacking, to define
21 the discharge location for the stormwater
22 management system that's under the rear parking,
23 and that information was provided and there is a
24 drainage course to the rear of the property. I
25 was concerned with where the pipe was discharging

1 we didn't have any topography showing. It had a
2 positive outlet to a stream. That information
3 was provided and is acceptable.
4

5 We're going to need copies of the City
6 of Newburgh approval letter and the Town of
7 Newburgh outside user submitted.

8 With that, that's the extent of our
9 comments right now.

10 CHAIRMAN EWASUTYN: Bryant Cocks?

11 MR. COCKS: AJ already addressed the
12 parking issue.

13 My first comment was regarding the
14 shared access and the DOT letter.

15 We also received a letter from the
16 Orange County Planning Department with a local
17 determination.

18 My third comment was regarding Jerry
19 Canfield and the drive aisle, which has been
20 addressed.

21 My next one is the air conditioning
22 units, they weren't shown, whether they were
23 going to be screened or anything like that. Just
24 the boxes there.

25 MR. COPPOLA: We can add something

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there.

MR. COCKS: Okay.

CHAIRMAN EWASUTYN: They will be screened is what you're saying?

MR. COPPOLA: They will be screened, yes. They're in the back but --

CHAIRMAN EWASUTYN: We still require that.

MR. COPPOLA: Okay.

MR. COCKS: The signage, the detail you showed, it was a twelve-by-eight foot sign for the entry sign, a twenty-nine square foot face. You have to double that for the calculation. I don't know if that's going to affect the rest. It looks like it might just because it's based on the frontage and there's not a lot of frontage there.

MR. COPPOLA: If I have a sign facing the road why would I need to double that? That wouldn't make sense.

MR. COCKS: It's two sides.

MR. COPPOLA: It's a one-sided sign. It's parallel to the road.

MR. COCKS: There's not going to be

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anything on the back, though?

MR. COPPOLA: Correct. I think it's also in the area where the hill is rising.

MR. COCKS: That's up to the Board.

MR. COPPOLA: Okay.

CHAIRMAN EWASUTYN: If he's not adding signage he's not adding signage; right?

MR. MICHALSKI: There's going to be two sides.

MR. COPPOLA: No. It's parallel to the road, not perpendicular.

MR. MICHALSKI: Okay.

MR. DONNELLY: That makes sense. If we're wrong the building department will correct it on the sign permit application. I think what AJ is saying is correct, if we're not using it then it's not a sign. The back portion I mean.

MR. COCKS: My next comment was just regarding showing colors and materials for the ARB review.

My last comment is just regarding we're going to need a survey sheet with a seal and signature and an engineer's seal and signature on the plans before final approval instead of the

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architect's seal.

CHAIRMAN EWASUTYN: Karen, site plan issues which relate to the landscaping.

MS. ARENT: Screening of the retaining wall from the adjacent property should be shown. Just show some shrubs between the wall and the property line. Consider an invasive species of plant.

Stones on the stonewall detail. Anthony, you should double check that stonewall detail to make sure it's -- to show stones that are large enough.

MR. COPPOLA: Okay.

MS. ARENT: To change the Rhododendron shown in the full sun because unless they have ideal soil conditions and ample moisture they don't do well in full sun conditions.

Specify the color of the concrete retaining wall. If you could make it as natural as possible, that would be great.

MR. COPPOLA: Sure.

MS. ARENT: Similar to natural stone actually.

MR. COPPOLA: Okay.

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MS. ARENT: That's it.

CHAIRMAN EWASUTYN: Okay. Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you

CHAIRMAN EWASUTYN: Mike, we'll need a sign off from Jerry Canfield in reference to --

MR. DONNELLY: I have we'll need one from Bryant, we'll need one from Pat, we'll need one from Jerry on the issue of the fire access after the plans are corrected. We'll need copies of the City of Newburgh flow letter and outside user agreement. It's subject to a DOT permit. The sewer force main easements. On the parking issue, either the plans are going to be changed to add the missing spaces or we're going to place a limit on the amount of retail space that can be occupied. Which are we doing?

MR. COPPOLA: Well Steve's preference

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MID-HUDSON II HOLDING COMPANY, LLC

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is he doesn't want to be limited, so we want
to --

MR. MICHALSKI: I want to add the
spaces.

MR. COPPOLA: In other words, if he
gets a hundred percent retail --

MR. DONNELLY: So we need a letter then
from who? Ken or Bryant?

MR. HINES: Bryant.

MR. COPPOLA: Either/or.

MR. DONNELLY: Which one do you want to
have sign off on that issue, John?

CHAIRMAN EWASUTYN: Raise your hand,
who wants responsibility? Bryant raised his hand
first.

MR. DONNELLY: It's in his memo then so
it's already covered.

We'll need a landscape security and
inspection fee.

Stormwater no; right?

MR. HINES: They will.

MR. DONNELLY: Okay. A water main
extension or no?

MR. HINES: No.

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MR. DONNELLY: There is a sewer main extension?

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

MR. DONNELLY: There are no offers of dedication. The usual condition regarding no installation of outdoor fixtures and amenities that aren't shown on the plans.

CHAIRMAN EWASUTYN: Are you okay with that, Pat?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: I see you're thinking.

MR. BROWNE: The entrance issue is squared away now? We're not going to do a shared and we're doing what's shown here?

CHAIRMAN EWASUTYN: They're going to show on the revised plans a future access to the lands of Monroe. We tried getting that, as you recall, with Dunkin Donuts and we weren't successful with them on 9W, were we?

MR. HINES: No. They showed the same thing. They put a note.

CHAIRMAN EWASUTYN: Right. Having --

MR. WERSTED: I have one more thing to

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add. Anthony, if you can move your stop line
back behind the sidewalk next to the stop sign.

MR. COPPOLA: Yup.

CHAIRMAN EWASUTYN: Any additional
comments from our consultants?

(No response.)

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

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Aye. So carried.

MR. COPPOLA: Thank you.

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CHAIRMAN EWASUTYN: Do you want to present us with the ARB now?

MR. COPPOLA: Sure. Real briefly, again this is the same facade that we saw last time. We have kind of a nice canopy on the projection element in the center here. Basically there's brick all the way around the one story. There's this octagon shape which is coming out. That's the element you're going to see as you pull in here. This is the point that's thirty-four feet high, so I'll lower this slightly but we'll still basically accomplish the same thing. There's a large area here that's under this overhang. This display area kind of also is an octagon shape, so that mirrors the columns as we go all the way around. You're probably only going to have -- I mean this may be one-tenth of the building. I'd say it's two, possibly three, but three would probably be pushing it. There's a side entrance over here also.

As far as the materials, I have them all here, the red brick, the aluminum green roof, the fiberglass shingle and the hardy board

1 siding. So as we work around the building the
2 same materials, hardy board, aluminum roof,
3 brick. In the back it's plain but it's all brick
4 and fiberglass shingles around through the drive-
5 through, hardy board and the gable and then the
6 drive-through roof which is fiberglass and a
7 fiberglass shingle. I think it's going to be a
8 great building.
9

10 CHAIRMAN EWASUTYN: Mike, before I pose
11 questions from the Planning Board on ARB, this is
12 under 4,000 square feet.

13 MR. DONNELLY: It's a Type II action.

14 CHAIRMAN EWASUTYN: A Type II action.
15 We actually never moved for a motion to declare a
16 negative declaration because, for the record,
17 it's --

18 MR. DONNELLY: None is needed but we
19 should note -- though we discussed it earlier, we
20 should note and the resolution recites it is a
21 Type II action. Because it's under 4,000 square
22 feet no further SEQRA compliance is required.

23 CHAIRMAN EWASUTYN: Just for the
24 record.

25 MR. HINES: You're going to waive the

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public hearing, too?

CHAIRMAN EWASUTYN: That we already did.

MR. DONNELLY: On February 7th.

CHAIRMAN EWASUTYN: All right. Karen, do you feel --

MS. ARENT: I don't have a copy of these plans.

MR. COPPOLA: Well, you have the black and white. That was submitted.

MS. ARENT: What I would suggest -- I was wondering if Anthony perhaps could talk with Jerry Canfield about the fire regulations and make sure that just that one little portion of the building makes -- to make sure he doesn't have to lower that. I mean to make sure he does have to lower that because -- have you read the fire code?

MR. COPPOLA: Oh, yeah. I read it today as a matter of fact.

MS. ARENT: It says that it's the highest point.

MR. COPPOLA: I specifically went to the book to look at that. It's not the average

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elevation, it's the highest point.

MS. ARENT: But you have
twenty-six feet out the front because of the road
coming in. Would that qualify?

MR. COPPOLA: It's the aisle, pulling
in the aisle. I've done this on other buildings.
I think if I'm under the thirty feet I can make
all this work.

MS. ARENT: I was wondering if the
Board would want to see the new building before
approving it without seeing the change?

MR. COPPOLA: I'm going to give you the
same thing. I mean it's going to come two feet
down here and two feet here. If I have to reduce
this I will. You'll get the same look.

CHAIRMAN EWASUTYN: Do you want to see
it, Cliff?

MR. BROWNE: No. AJ's work has been
pretty decent in the past. With Karen looking at
it --

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe?

MS. ARENT: If you could submit a color

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drawing for the files.

MR. COPPOLA: Yeah, we'll do that.

MR. GALLI: I do have a question. Are you going to solicit a tenant first or are you going to build it first and then solicit the tenant? Only because of the drive-through. A drive-through is usually a bank or pharmacy.

MR. MICHALSKI: It's going to be -- I'm not going to build it if --

MR. GALLI: If you don't get a pharmacy or bank or --

MR. MICHALSKI: There probably won't be a drive-through. A bank was interested but now the whole --

MR. GALLI: That's what I'm saying. Okay. That would give you a whole lot more room on the other side.

CHAIRMAN EWASUTYN: Additional comments on the ARB?

MS. ARENT: No. It's a very nice building.

MR. MENNERICH: Anthony, do you have a sample of the hardy board?

MR. COPPOLA: Mm'hm'. I knew somebody

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would ask for this.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Bryant, do you have anything for the ARB?

MR. COCKS: Nothing further.

CHAIRMAN EWASUTYN: Mike, do you want to give us the standard conditions?

MR. DONNELLY: The standard ARB conditions that no construction inconsistent with the plans, and Karen would require -- we would require Karen to review the plans for consistency with the architectural renderings before building permits are issued.

CHAIRMAN EWASUTYN: Having heard the conditions for approval for the ARB of the --

MR. BROWNE: Would that be the revised architectural renderings?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Yes.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Having heard the conditions for approval for the resolution -- excuse me. Having heard the resolution for

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MID-HUDSON II HOLDING COMPANY, LLC

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approval for the ARB for Mid-Hudson Holding
presented by our Attorney Mike Donnelly, I'll
move for that motion.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. Motion
carried.

MR. COPPOLA: Thank you very much.

MR. MICHALSKI: Thanks a lot. It's
going to be a great looking building.

(Time noted: 8:27 p.m.)

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

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

DATED: July 25, 2008

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

----- X
In the Matter of

GARDNERTOWN COMMONS
(2004-19)

Request to attend next consultants' work session

----- X

BOARD BUSINESS

Date: July 17, 2008
Time: 8:27 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO
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GARDNERTOWN COMMONS

CHAIRMAN EWASUTYN: Dina, we have Board business.

MS. HAINES: The first item of Board business is a letter from -- it's Gardnertown Commons, excuse me. We got a letter from Lorraine Potter dated June 30, '08 requesting to be placed on the next available consultants' work session.

CHAIRMAN EWASUTYN: I'll move for a motion to set up Gardnertown Commons for -- what day would that be, Bryant?

MR. COCKS: For the work session?

CHAIRMAN EWASUTYN: Yes.

MR. COCKS: Next Tuesday, the 22nd.

CHAIRMAN EWASUTYN: -- for the July 22nd consultants' meeting.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

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GARDNERTOWN COMMONS

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Aye. Motion
carried.

(Time noted: 8:29 p.m.)

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

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

DATED: July 25, 2008

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

----- X
In the Matter of

SHYAM
(2005-51)

Attendance at consultants' work session on 7/22/08

----- X

BOARD BUSINESS

Date: July 17, 2008
Time: 8:29 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

----- X

MICHELLE L. CONERO
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SHYAM

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MS. HAINES: The next one is for Shyam. We received a letter from Anthony Coppola dated July 10, 2008 also looking to be set for the consultants' work session of July 22nd.

CHAIRMAN EWASUTYN: Anthony, I had received your letter and I thought it would be more effective and more efficient to set it up as a consultants' meeting and then the consultants would report back to us at our next meeting, which may be the 31st of July. We may have to cancel. It may be the 7th. In any case, scheduling wise you would be much further ahead for making your application to the ZBA.

MR. COPPOLA: That would be great.

CHAIRMAN EWASUTYN: I'll move for a motion to set this up for the July 22nd consultants' meeting.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

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SHYAM

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roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself aye. So
carried.

Bryant, you'll report back to us as to
your findings for that meeting and then we'll set
it up for a Board business item to be referred on
to the ZBA.

Before we close, just a few reminders,
if not tomorrow, Monday if you could e-mail Dina
your reviews that you have prepared for the
McKenzie site. Pat Hines, if you would follow up
with a letter for Grace Carbone in reference to
the site visit.

MR. HINES: Yes.

CHAIRMAN EWASUTYN: Anything else I may
have missed?

MR. COPPOLA: Am I on for South Union
Plaza for the workshop? I am. Okay.

CHAIRMAN EWASUTYN: Okay. Thank you
all.

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SHYAM

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I'll move for a motion to close the
Planning Board meeting of July 17th.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

(Time noted: 8:32 p.m.)

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

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

DATED: July 25, 2008