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

----- X

In the Matter of

VERIZON WIRELESS - VALLEY VIEW DRIVE
(2010-05)

Valley View Drive Cell Tower
Section 15; Block 1; Lot 10
R-1 Zone

----- X

PUBLIC HEARING
SITE PLAN & SEUP

Date: August 5, 2010
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
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CLIFFORD RHODE

----- X

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

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2 MR. PROFACI: Good evening, ladies
3 and gentlemen. Welcome to the Town of
4 Newburgh Planning Board meeting for August 5,
5 2010.

6 I'll call the meeting to order
7 with a roll call starting with Frank Galli.

8 MR. GALLI: Present.

9 CHAIRMAN EWASUTYN: Present.

10 MR. PROFACI: Here.

11 MR. FOGARTY: Here.

12 MR. WARD: Present.

13 MR. PROFACI: The Town of Newburgh
14 Planning Board has consultants which advise
15 it, and I'll ask them to introduce
16 themselves at this time

17 MR. DONNELLY: Michael Donnelly,
18 Planning Board Attorney.

19 MS. CONERO: Michelle Conero,
20 Stenographer.

21 MR. CANFIELD: Jerry Canfield, Town of
22 Newburgh.

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

25 MR. COCKS: Bryant Cocks, Planning

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Consultant, Garling Associates.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

MR. PROFACI: At this time I'll turn the meeting over to John Ward.

MR. WARD: Please stand up.

(Pledge of Allegiance.)

MR. WARD: If you have any cell phones, please turn them off.

MR. PROFACI: The first item on our agenda for this evening is Verizon Wireless, Valley View Drive. It's Valley View Drive cell tower, Section 15; Block 1; Lot 10, located in an R-1 Zone. It's a public hearing, site plan and it's being represented by Clifford Rhode.

MR. FOGARTY: I'll read the notice. "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185-57 Section K and Chapter 168-16 Section A, on the application of Verizon Wireless, Valley View Drive, 2010-15, for a site

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2 plan and special permit approval for an antenna
3 upgrade at an existing wireless facility on the
4 existing Valley View Drive cell tower on premises
5 Valley View Drive in the Town of Newburgh,
6 designated on the Town map as Section 15; Block
7 1; Lot 10, R-1 Zone. Said hearing will be held
8 on the 5th day of August 2010 at the Town Hall
9 Meeting Room, 1496 Route 300, Newburgh, New York
10 at 7 p.m. at which time all interested persons
11 will be given an opportunity to be heard. By
12 order of the Town of Newburgh Planning Board.
13 John P. Ewasutyn, Chairman, Planning Board, Town
14 of Newburgh. Dated July 6, 2010."

15 MR. GALLI: The notice of hearing was
16 published in The Sentinel on July 13th, in The
17 Mid-Hudson Times on July 14th.

18 Twenty-three notices were sent out,
19 twenty-two were received back and one was
20 returned undeliverable. The notice of hearing is
21 in order.

22 CHAIRMAN EWASUTYN: Mr. Rhode, if you
23 could give your presentation.

24 MR. RHODE: Thank you very much, Mr.
25 Chairman, Members of the Board. Thanks again for

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2 having me back here in Newburgh. It's good to be
3 back.

4 I am Clifford Rhode of the law firm of
5 Cooper, Irving & Savage based in Albany, New
6 York, and we are regional counsel for Orange
7 County Poughkeepsie Limited Partnership doing
8 business as Verizon Wireless. Verizon Wireless
9 is a New York State public utility and is a
10 Federal Communications Commission licensee
11 authorized to do business and provide service in
12 Orange County and surrounding areas including the
13 Town of Newburgh.

14 We are here tonight proposing basically
15 an antenna swap. I was trying to liken this to
16 what it might be on a building and the only thing
17 I came up with was maybe somebody replacing some
18 windows with more efficient windows.

19 We have currently twelve antennas on an
20 existing tower off of Valley View Drive that is
21 owned by Crown Castle, and we are seeking to swap
22 out six of those antennas with six new antennas.
23 This will not anticipate or will not make for any
24 change in the height of the tower, nor will they,
25 as the Board knows, produce any changes on the

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ground.

I was last here July 1st to present this to the Board. Since that time the applicant had provided, on July 2nd, additional information regarding antenna specifications to the Board. On July 14th we received comments from HDR, the Board's Wireless Consultant. On July 20th County Planning produced a Local determination letter. Since that time -- then on August 2nd, very most recently, the applicant submitted additional plans, revised plans as a means of showing what is actually existing at the facility. We learned that we did not have it exactly correct when we initially submitted plans, both on the ground and on the tower, and so it corrected that. The new plans also provide comments that were suggested by HDR and also correctly show that we are not suggesting or proposing any additional cabling, which the initial plans submitted to you did show. Those plans unfortunately, as I'm sure you know, were not submitted with an explanation. That was followed up yesterday with an explanation of what those plans were all about.

As we've explained to the Board

1
2 previously, the reason for this project is to
3 roll out in this area what is known as wireless
4 broadband. Sometimes it's called 4G, or in
5 Verizon Wireless's case the technology we're
6 using is LTD. So this is really a reflection of
7 the fact that wireless services, not just in this
8 area but really nationwide, are just exploding,
9 and it's very challenging for carriers to keep up
10 with the demand. As that demand increases, the
11 desire to provide additional services also
12 increases, and this particular service, the
13 wireless broadband, I think is going to take us
14 to entirely new levels of wireless penetration
15 and also be a terrific boon to the public safety,
16 entertainment, et cetera. People's lives at work
17 and at play.

18 So in addition to that information I
19 mentioned that we've already submitted, we
20 provided written materials before which included
21 the application forms, our FCC licenses, a
22 structural analysis showing that the tower is
23 absolutely capable of handling our equipment, the
24 environmental assessment form and the site plan.

25 So I'm here tonight to answer any

1
2 questions that the Board may have. We hope that
3 the Board will both issue a negative declaration
4 under SEQRA and then move to approve the project.
5 Thank you.

6 CHAIRMAN EWASUTYN: At this time I'll
7 turn to the Planning Board Attorney, Mike
8 Donnelly, for those of you here from the public,
9 for Mike to give you an overview of the public
10 hearing's purpose and meaning.

11 MR. DONNELLY: For certain types of
12 projects, among them subdivisions and special
13 permits, and this is in part a special permit
14 application, the Planning Board is required to
15 hold a public hearing before it takes action.
16 The purpose of the hearing is to see whether or
17 not you, the members of the public, have any
18 information that you can bring to the attention
19 of the Planning Board that the Planning Board may
20 not itself have realized from what it's heard
21 from the applicant as well as the technical
22 representatives of the Town. In a moment the
23 Chair will ask if any members of the public wish
24 to speak. If you do, we'd ask that you raise your
25 hand, come forward and identify yourself by name,

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2 and, if you would, spell your name for our
3 Stenographer, give us an idea of where you live
4 in relation to where this tower is. Please direct
5 your comments to the Board. If you have
6 questions, the Chairman can direct them to either
7 the applicant's representative or the Town's
8 wireless engineering consultant.

9 CHAIRMAN EWASUTYN: Thank you. Is
10 there anyone here this evening who has any
11 questions or comments, would you please raise
12 your hand and give your name and your address.

13 (No response.)

14 CHAIRMAN EWASUTYN: At this time let
15 the record read that there is no one from the
16 public here tonight.

17 We'd like to turn to our
18 telecommunication representative from HDR LMS,
19 Stacey Calta, is it.

20 MS. CALTA: Calta.

21 CHAIRMAN EWASUTYN: Stacey represents
22 -- the company she works for, HDR LMS, represents
23 the Town of Newburgh Planning Board and the
24 Town's residents, and they advise us on matters
25 before us. Thank you.

1
2 MS. CALTA: Thank you, Chairman. As
3 submitted in our July 14th letter, in reviewing
4 the application we looked at numerous issues, the
5 application itself, the aesthetics of the
6 project, the structural and safety issues of the
7 tower.

8 For the aesthetics, swapping out these
9 antennas, they are either the same size or
10 smaller than the existing antennas, so they will
11 not have a negative impact on any visual views of
12 the tower.

13 We also did a structural analysis and
14 the tower will hold the additional antennas, no
15 problem. There's no structural issues with the
16 tower.

17 We did make a couple of recommendations
18 in our July letter which, in the plans we got
19 yesterday dated August -- the letter we got
20 yesterday that the plans now do include those
21 notes about checking the maintenance and
22 inspecting the fences and the signage, having the
23 antennas match the colors of the tower and having
24 all operations maintained in accordance with the
25 Town's wireless code.

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CHAIRMAN EWASUTYN: Thank you. So at this point are you -- would you recommend to the Planning Board that we accept the application before us for a panel exchange and also for a special use permit?

MS. CALTA: Yes. They have met all the conditions and the recommendations that HDR had previously had.

CHAIRMAN EWASUTYN: Again I'd like to turn the meeting over to the audience. If there's anyone here this evening who has any questions or comments.

(No response.)

CHAIRMAN EWASUTYN: At this point we'll turn it over to the Planning Board Members.

Frank Galli?

MR. GALLI: No additional comment.

MR. PROFACI: Nothing additional.

MR. FOGARTY: I just have one question so far as where this industry is going. Do you foresee that down the road there's going to be a need for additional towers to be built or more in line with what's happening here where they're just upgrading the panels on the towers that

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currently exist?

MR. RHODE: Additional towers are always a possibility is the true answer. I'll defer as well to Stacey, but with the increase in demand there are a couple of issues that happen. One very important one is that you have additional need for capacity, and the way that you add capacity to the system is adding additional sites to the system. I'm not a physicist by any stretch but my understanding is that there are physical limitations to the amount of traffic you can pump through these wireless frequencies that are used for telecommunications services. It's not to say that in the future there might be ways to increase the amount of traffic, but there are physical constraints.

So as a preliminary matter; yes, we absolutely always look to see if there are tall structures, if there are existing towers that will serve our needs, because, I think we've discussed this before the Board, it's absolutely a win-win situation if you can site on a facility that already exists. But after awhile in a given area you might run out of facilities where you

1
2 can site something because you already have
3 facilities there, for instance, or it doesn't
4 meet your needs, again because of these physical
5 limitations. It's a line-of-sight technology,
6 et cetera.

7 So yes, probably you will see more co-
8 location applications but it's not out of the
9 stretch of the imagination that you may see more
10 applications before you for new sites themselves.

11 MR. FOGARTY: Thank you.

12 MR. WARD: No additional comment.

13 CHAIRMAN EWASUTYN: At this point I'll
14 turn to our consultants for any comments or
15 recommendations they have.

16 Jerry Canfield?

17 MR. CANFIELD: We have nothing on this
18 application.

19 CHAIRMAN EWASUTYN: Pat Hines?

20 MR. HINES: We have nothing.

21 CHAIRMAN EWASUTYN: Bryant Cocks?

22 MR. COCKS: Just a note that says this
23 was sent to the Orange County Planning Department
24 and they sent back a Local determination.

25 CHAIRMAN EWASUTYN: Karen Arent?

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MS. ARENT: I have nothing.

CHAIRMAN EWASUTYN: At this time, having opened the meeting for a public hearing, no one in the audience wishing to speak or make comment on the application before us, I'll move for a motion to close the public hearing for Verizon Wireless, Valley View Drive site plan and special use permit.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by John Ward. 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. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

We couldn't make a SEQRA determination at our first meeting because we had to circulate

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2 to the Orange County Planning Department. As
3 reviewed by Bryant Cocks, our Planning
4 Consultant, and Clifford Rhode Esquire, we did
5 receive a Local determination from the Orange
6 County Planning Department. Now that we have
7 that, I'll move for a motion to declare a
8 negative declaration for the Verizon Wireless,
9 Valley View Drive site plan and special use
10 permit.

11 MR. WARD: So moved.

12 MR. FOGARTY: Second.

13 CHAIRMAN EWASUTYN: I have a motion by
14 John Ward. I have a second by Tom Fogarty. Any
15 discussion of the motion?

16 (No response.)

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

19 MR. GALLI: Aye.

20 MR. PROFACI: Aye.

21 MR. FOGARTY: Aye.

22 MR. WARD: Aye.

23 CHAIRMAN EWASUTYN: And myself. So
24 carried.

25 At this time I would like to turn to

1
2 Mike Donnelly, Planning Board Attorney, to give
3 us conditions of approval in a resolution for
4 Verizon Wireless.

5 MR. DONNELLY: The resolution will be
6 for amended site plan, reissuance of the special
7 use permit and ARB for the antenna units
8 themselves. The conditions are fairly standard.
9 The first is a requirement that what is submitted
10 to the building department, what is built are
11 consistent with the renderings shown on the plans
12 submitted.

13 The performance removal security;
14 Cliff, do we know where that one stands in this?

15 MR. RHODE: I think that was resolved
16 with our last application. Right?

17 MR. DONNELLY: I thought it was. I'm
18 going to leave the condition that says you must
19 post up to \$75,000. If you deliver that proof --

20 MR. RHODE: We'll make sure that that
21 proof is there.

22 MR. DONNELLY: Beyond that, HDR has
23 recommended we include some bulleted conditions.
24 They involve the requirement that the operation
25 shall be maintained in accordance with the

1 overall requirements of the Town's wireless law,
2 color matching of the antennas. The cable part
3 doesn't matter here. Security fencing and the
4 equipment be routinely inspected and maintained.
5 Then our standard condition that the site plan
6 approval allows you to do what the site plan
7 shows but no other fixtures or equipment may be
8 installed without amended approval of the Board.
9 Finally, there can be no changes in the antenna
10 size or ground-based equipment without amended
11 approval. There is no need for landscape
12 security.
13

14 CHAIRMAN EWASUTYN: Any questions from
15 Board Members as far as the resolution presented
16 to us by Mike Donnelly?

17 MR. GALLI: No.

18 MR. PROFACI: No.

19 MR. FOGARTY: None.

20 MR. WARD: None.

21 CHAIRMAN EWASUTYN: Then I'll move for
22 a motion to grant conditional final site plan
23 approval for the Verizon, Valley View Drive site
24 plan and special use permit.

25 MR. WARD: So moved.

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MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you, Mr. Rhode.

MR. RHODE: Until we meet again. Thank you very much.

CHAIRMAN EWASUTYN: Thanks for the education. You're very articulate.

MR. RHODE: Thank you for saying so.

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

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

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

DATED: September 2, 2010

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

----- X
In the Matter of

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

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

----- X

TWO-LOT SUBDIVISION

Date: August 5, 2010
Time: 7:16 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: THOMAS DePUY

----- X

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

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2 MR. PROFACI: The next item on our
3 agenda is the resubdivision of lot 2 of Palmerone
4 and Taylor Way. It's a two-lot subdivision on
5 Dara Drive, Section 20; Block 1; Lot 2.12 in the
6 AR Zone. It's being represented by Tom DePuy.

7 MR. DePUY: As we had presented in the
8 previous meeting, we're proposing to reroute the
9 storm sewer for what was the original Palmerone
10 subdivision down on lot 2 of that subdivision.
11 We originally had a design for here. There's
12 been some legal action that has prevented that,
13 so in order to bring the project in compliance
14 with the State stormwater laws we propose to
15 reroute the storm sewer down through here and
16 develop a stormwater management pond here to meet
17 the criteria.

18 I think at the last meeting it was
19 asked if I could review all the subdivisions that
20 are in that area just so -- and I can point out
21 where this is occurring. I think I had submitted
22 to everybody a copy. The subdivision -- this is
23 the Palmerone/Taylor Way subdivision. This is
24 where the pond is being relocated. It was
25 proposed here, it's being relocated to here.

1
2 Basically that services this portion of the
3 Palmerone subdivision. There are other ponds
4 through the area. We have one proposed here,
5 here, and then there was another one that was
6 proposed for the future Longview Farm
7 subdivision.

8 Just in summary, this was called the
9 Rocky Heights subdivision up here. There was
10 three sections. We had done a four-lotter on a
11 minor subdivision and then we came back and did
12 six lots here, and did five lots here, and a lot
13 line change with Pascale.

14 And then we did a Hickory Shadow
15 subdivision which covers this area here. The
16 same thing, we had done a four-lot minor
17 subdivision. I believe when we were all done
18 that was four lots. I think we had a total of
19 twenty lots, so there were sixteen lots done with
20 the major subdivision.

21 We had done Palmerone/Taylor Way.
22 Basically we did -- we created -- this is Mr.
23 Palmerone's original house here. We created a lot
24 there. There was a second existing house that
25 sits on this lot here and then we created four

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additional building lots.

We had done a minor subdivision called Summer Kim which created two lots down here by Holmes Road and two lots on the end of Barbara Drive, and then there was a second phase, which was renamed to Longview Farms, which was developing all this land here, up through here. And then also at the time when we were given preliminary approval we brought the Barbara Drive extension all the way back down to Merritt Lane.

This was in front of the Board, it was granted preliminary approval and we're just getting our Health Department approval on that probably next week. So that is the status of this.

Just to go over here, this was a -- this was part of the Hickory Shadow subdivision. This is where Larry Cosman had built his house. It was a large lot up on the hill there, but that was actually part of the original Hickory Shadow subdivision. The question was raised what was in the drainage district. Basically all those subdivisions -- I forgot one. We had done a small resubdivision of Bento's land up here which

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2 made this lot a little bit smaller, and it was
3 more of a lot line change. In the end all those
4 actions were put into one drainage district and
5 we called it at the time drainage district X.
6 Basically what happens is it covered all the
7 Hickory Shadow, Rocky Heights, Palmerone and
8 Summer Kim, Longview Farm properties including
9 section II of Hickory where Larry Cosman's house
10 is, and also this little lot of Bento's. So all
11 that is included in this drainage district, which
12 was a question asked at the time. So all that
13 land is within one drainage district.

14 When we came -- like I said, the action
15 that we're really looking at is to relocate the
16 pond that was proposed here to there. I think
17 that's about it in summary.

18 CHAIRMAN EWASUTYN: Pat Hines is the
19 drainage consultant for the Town of Newburgh
20 Planning Board. At this point I'd like to have
21 Pat review this with us.

22 MR. HINES: We previously issued some
23 technical comments on the stormwater management
24 pond and some of the pipe routing to it. Those
25 have been addressed in the most recent

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2 submission, so we don't have any outstanding
3 engineering comments.

4 Probably the only comment is to go --
5 is the applicant going back to the Town Board to
6 make sure that they're going to accept this
7 parcel as an additional parcel owned and
8 operated, maintained by the drainage district?
9 We did request the overview that Mr. DePuy just
10 gave us to make sure that this was a component of
11 the initial drainage district, and that it would
12 be included, and all the parcels within each of
13 those subdivisions are going to pay into the
14 operation and maintenance of all these
15 improvements. The Town Board will also have to
16 accept this detention pond as an additional
17 improvement of that drainage district.

18 So with the submission that addressed
19 our technical comments, the only outstanding item
20 we have is some of the clean-up matters that have
21 to go before the Town Board.

22 CHAIRMAN EWASUTYN: Will you be going
23 before the Town Board?

24 MR. DePUY: Yes. We wanted to make
25 sure this was in some kind of approvable form

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LOT 2 - PALMERONE & TAYLOR WAY

26

from the Planning Board, and then we were going to get in front of the Town Board.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The applicant addressed our previous comments.

They detailed the four-foot high fence with the wire mesh in back.

They have to submit all the easement language to Mike Donnelly for his approval.

This received a Local determination from Orange County Planning Department.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: I don't have any comments on this.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: I have no comments.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: Were all these drainage and stormwater things supposed to be put into place like in the beginning of the project?

MR. HINES: No. There was a large --

1
2 there is a large detention pond facility proposed
3 up along Lattintown Road. That has yet to be
4 constructed.

5 Portions of it have been, Tom?

6 MR. DePUY: Yes, portions of it. This
7 one here. There's still additional work to be
8 done on this detention pond.

9 MR. GALLI: I see them building houses
10 up there. I don't know if it's part of that
11 subdivision but there's pretty big houses up on
12 the hill at the end of the subdivision.

13 MR. HINES: And that work has been
14 bonded. Eventually it will need to be completed.
15 The reason this is before you tonight is part of
16 the plan was to have the detention pond on what
17 was Summer Kim. It can't be constructed right
18 now due to some legal matters with some of the
19 partners involved, so they need to move that
20 portion of this detention that was on that lot
21 over onto this lot so it can stand alone.

22 MR. GALLI: Is the building of the pond
23 triggered by a certain amount of buildings?

24 MR. HINES: Yes. There are some
25 smaller detention ponds. The larger detention

1 pond, it should be nearing completion. There's
2 enough construction there that that should be
3 being completed at this time. It is designed and
4 was designed initially for the entire watershed.
5 This was before the Board on many occasions but
6 we saw early on development potential in here and
7 did request the applicants -- several of the
8 applicants got together. Mr. DePuy did the
9 drainage work and they did a comprehensive
10 management plan for this entire watershed which
11 worked out better than having multiple little
12 ponds supporting each little subdivision.
13

14 MR. GALLI: It's just confusing because
15 they always come back and are changing something
16 because of some legal matter.

17 MR. HINES: It is. That's one of the
18 reasons why I asked Mr. DePuy to bring the map
19 before the Board tonight, to see that these are
20 all tied together.

21 MR. GALLI: Hopefully it's the last
22 time we have to see them.

23 MR. DePUY: We have preliminary on
24 Longview. We're just getting done with the
25 Health Department. We'll be back for final.

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MR. HINES: I'm just interested if they're still pursuing that, is there a potential that the other stormwater management pond would revert back?

MR. DePUY: Not at this time. We didn't want to take that risk. Just what you're saying, we've actually built out here. This should have been built, you know, and then we got into a legal matter and so we've decided -- you know, the applicant of this one decided we've got to get that done. Compliance is really both the applicant and the Town.

MR. GALLI: You say that should have been done already?

MR. DePUY: Yes. That should have been done and it got caught up in the legal matter. They were trying to settle it, they couldn't get it settled so we had to come a different path.

MR. HINES: That portion of Dara Drive has been constructed.

MR. DePUY: Yes.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

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2 MR. FOGARTY: Can you just go over
3 briefly how do these ponds work? In other words,
4 does one kind of lead into another one and where
5 does it eventually all drain to?

6 MR. DePUY: Eventually it's all
7 tributary to Lattintown Road. It breaks down in
8 this area. Basically what happens is we have a
9 pond here that serviced this area up in here. We
10 have a pond here, this one has been constructed,
11 that services this area through here. There's two
12 existing ponds which actually aid in the
13 detention but not in the stormwater cleansing
14 part of it. So those are existing ponds. And
15 then this watershed here runs down along here and
16 comes here. We have a large proposed pond in
17 this area here when this all gets constructed
18 because this water will wrap around about like
19 this.

20 MR. HINES: There's also an existing
21 pond in that area right now.

22 MR. DePUY: Yeah. There's an existing
23 pond over here on Bento's lands. We have to
24 catch the water and cleanse it before it comes
25 through here, and then that comes down and it's

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tributary to that same Lattintown area.

MR. FOGARTY: All gravity?

MR. DePUY: They're all gravity and everything. We do have on the -- the majority of Longview comes to this pond, but this part right here runs down and we have a proposed -- it's more of a cleansing device rather than a pond because it's adjacent to this pond here. So we have a small stormwater management -- I think we have a sand filter in that case and stuff like that which will cleanse the water before it gets discharged into that pond.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: At this point I'm going to move for a motion to declare a negative declaration for the resubdivision of lot 2 of Palmerone Way and Taylor Way and to schedule a public hearing for the 2nd of September 2010.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Tom Fogarty. Any

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discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Tom, if you would work with Bryant Cocks, our Planning Consultant, in reference to the notice of hearing, circulation. And the Tuesday before the actual public hearing, which will be on the Thursday, September 2nd, if you could manage to get the return receipts from the certified mailing to Bryant Cocks' office --

MR. DePUY: Okay.

CHAIRMAN EWASUTYN: -- for review. Thank you.

MR. DePUY: Thank you very much.

(Time noted: 7:30 p.m.)

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

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

DATED: September 2, 2010

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

----- X
In the Matter of

SANTA MONICA HOLDINGS
(2010-03)

5266 Route 9W
Section 20; Block 2; Lot 30.21
B Zone

----- X

CONCEPTUAL SITE PLAN
ARCHITECTURAL REVIEW BOARD

Date: August 5, 2010
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO
JOSEPH MINUTA

----- X

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

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2 MR. PROFACI: The next item on our
3 agenda is Santa Monica Holdings. It's a
4 conceptual site plan and ARB, located at 5266
5 Route 9W, Section 20; Block 2; Lot 30.21, in the
6 B Zone. It's being represented by Joseph Minuta.

7 MR. CAPPELLO: Good evening. I'm John
8 Cappello with Jacobowitz & Gubits, also here with
9 Mr. Minuta on behalf of the applicant. I also
10 have an engineering consultant with Chazen, Peter
11 Romano, here.

12 I want to briefly introduce it. I know
13 we have a couple letters here from the
14 consultants with some technical comments that I
15 will further the Board as to how we will respond.
16 I just briefly wanted to say we have put this
17 application on track again, reviewed some of the
18 history of the zoning code, the history of the
19 use of this site as an eating and drinking
20 establishment, prepared correspondence to Mr.
21 Canfield and the ZBA, Planning and town attorney.
22 I believe they reviewed it and there's
23 correspondence there. I won't go into the use too
24 much unless the Planning Board directs me.

25 We're here to put this application back

1
2 on track, to begin getting technical comments on
3 this type plan, to hopefully work toward a
4 conceptual approval and move forward with the
5 process. Like I said, I do see there's some
6 fairly detailed comments. We'd like to begin to
7 address them with the Board and begin the process
8 of moving the application forward.

9 So with that, I would turn back to the
10 Chair.

11 CHAIRMAN EWASUTYN: The board is up for
12 you to present your project how you would like.

13 MR. CAPPELLO: Joe.

14 MR. MINUTA: Thank you, John.

15 Good evening, gentlemen of the Board
16 and consultants. I'm Joseph Minuta with Minuta
17 Architecture. We were previously before you to
18 represent this project. Not much has changed
19 with respect to the architecture. We did focus
20 on the comments from our last meeting. Those
21 comments have either been addressed or noted in
22 full. We also are in receipt of new comments for
23 this last submission which are currently being
24 addressed.

25 If you'd like, I can go through the

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project with you again.

CHAIRMAN EWASUTYN: Sure. Go ahead.

MR. MINUTA: What we have is an existing site. The existing use is an eating and drinking establishment with entertainment. We are adding a new building to the site, 4,000 square feet, which is located to the northeast.

The parking of the existing site is planned on being reused and paved over. We've included all the parking spaces for the location. Parking occurs in front. There's a beautifully landscaped parking area, a pedestrian path to the building in this location.

There are trees located throughout the property that we have been in contact with Ms. Karen Arent regarding.

There's an overhead canopy that is -- services the drive-through for the area.

It's a pretty simple plan. We're taking advantage of the corner lot and providing access here and here -- excuse me. Providing a new access on Devito Drive. It's really just a narrowing of the existing. All we currently have on this location is asphalt to asphalt. There is

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no curbing there currently. It will be narrowed down in this location.

There are three existing curb cuts on the DOT property. We plan on having those remain.

The new building will be converted to a use that is permitted within the zone. We're thinking potentially retail.

The dumpster enclosure is located here. We provided an enclosure. The colors will be similar to the building.

We have our retention pond, detention pond for the upper portion which has been engineered.

This site will have, I believe it's going to be an Elgin system for sanitary disposal purposes on the site since sanitary sewer does not exist here from a municipal standpoint. That's in a nutshell the project.

Some of the elevations of the building, what we propose are as follows: The canopy area here, this is lit at night. This is planned to be a metal building. We have used a corrugated panel for that, adjusted it's position for

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2 aesthetic value. We have narrow windows in the
3 front and we have windows along the rear of the
4 building that will capture some solar gain for
5 purposes of heating and so forth within the
6 building. The site has been oriented with north,
7 south, east, west direction in expectation of
8 that solar gain.

9 That is primarily the project that we
10 have before you.

11 CHAIRMAN EWASUTYN: At this point I
12 think we'll begin discussing and reviewing it in
13 two parts, one being the design guidelines,
14 projects that have been approved within proximity
15 to that, projects that are on the board, and to
16 find a common thread that identifies and defines
17 the Route 9W corridor. Some of the pattern to
18 your site plan doesn't compliment those
19 guidelines and other projects. We'll talk about
20 that.

21 The other portion we'll talk about now,
22 if there's someone here from Chazen, and Pat
23 Hines, is some of the technical issues as it
24 relates to parking, and stormwater management,
25 and the sanitary sewer.

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Pat.

MR. HINES: Sure. I'll just go through the comments. Some of them are just statements. DOT approval for access and utilities will be required.

A DEC SPDES permit for the subsurface sanitary sewer disposal system is required as well as Health Department approval.

The system has been designed now with a flow rate approved by the Health Department of, I believe 1,600 gallons per day, plus the existing system on the site. Both systems are cumulatively regulated now that any one of them has a cumulative total greater than 1,000 gallons. That will be required.

In reviewing the septic system I noted that the occupancy of the building was identified significantly greater than the occupancy of the building for the parking calculations. That needs to be resolved. The building occupancy was 274 people for the septic system design whereas the parking calculations were based on 197. So there's a significant discrepancy in the plan sheets. Approximately 20 additional parking

1 spaces would be required based on the occupancy
2 utilized for the septic design of the building.
3

4 Also, the required parking either way,
5 either with the 197 in the new building or the
6 274, requires the minimum, on the architect's
7 calculations, of 62 parking spaces which are
8 shown. The Board's policy is that required
9 parking be constructed to current Town of
10 Newburgh parking standards. Right now the plans
11 show an overlay of a gravel -- what amounts to a
12 gravel parking area existing. It's been the
13 Board's policy, and actually has been the
14 requirement of many site plans in the Town to
15 have that parking developed as standard parking
16 lots, not just overlay the pavement. The parking
17 needs to be developed with curbs, landscaping in
18 compliance with the Town's code. Right now that
19 overlay doesn't meet that. We've had several
20 projects, even before the Board recently, that
21 have had to come in and upgrade their parking to
22 current standards because it is required parking
23 for their uses. The Board has in the past allowed
24 some overflow type parking to remain in a gravel
25 condition, but required parking needs to be

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2 paved, curbed, appropriate drainage improvements
3 put in there. That's going to domino a little
4 bit on the stormwater plan right now.

5 The applicants have contended that less
6 than one acre of disturbance occurs on the site.
7 We believe that the area shown as gravel parking
8 right now being changed to a more impervious
9 surface and with the additional improvements that
10 are going to be required, that the disturbance
11 will be greater than one acre, and the stormwater
12 management facilities will have to comply with
13 both the Town of Newburgh requirements as well as
14 the DEC design guidelines. So that's something
15 that the applicant's engineers are going to have
16 to take a look at.

17 We have some technical comments on the
18 stormwater management plan report that I know the
19 applicant's representative has and can probably
20 address both in narrative form and making
21 revisions to the modeling. Those comments that I
22 had in the beginning regarding the parking
23 calculations are going to be a basis for possibly
24 a redesign of the stormwater management system.

25 Besides the technical comments that we

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have, I think those are the main comments.

CHAIRMAN EWASUTYN: A representative from Chazen.

MR. MINUTA: With respect to the parking --

CHAIRMAN EWASUTYN: Can we hear from the representative from Chazen?

MR. ROMANO: Joe is more in tune with the overall layout and design of the parking. I'll let Joe address the parking first and then I can talk to Pat's comments from a technical standpoint.

MR. MINUTA: Essentially the sanitary disposal system has been over designed for the occupant load. The occupant load is being based upon the parking count where the building will be designed in accordance with the parking occupant load.

CHAIRMAN EWASUTYN: I don't know how satisfied we are with that. That's a quick answer to saying things are okay the way they are. We'll see how this progresses.

MR. MINUTA: If they're not, I don't know how else to answer that.

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CHAIRMAN EWASUTYN: Okay, fine. It's kind of an answer expected from you.

MR. HINES: The septic design is then well over designed. It's not --

CHAIRMAN EWASUTYN: Why don't we bring it back to what it should be designed for.

MR. HINES: It depends. When I looked at the occupancy of the building and the septic design of being 274 and the parking calculation being 197, that's a big difference. It's not a conservative design of ten percent or something. It's much more than that.

MR. MINUTA: Respectfully, those are minimums, however.

MR. HINES: Any approval will have to limit the occupancy of the building to the parking calculation.

CHAIRMAN EWASUTYN: That will be the case, John.

MR. CAPPELLO: We'll have to rectify it. We understand. We'll work with --

CHAIRMAN EWASUTYN: As he's saying, the occupancy is going to be limited. That could be a code enforcement issue.

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MR. CAPPELLO: Right. That would be based upon, you know, the building.

CHAIRMAN EWASUTYN: We're looking for cooperation on a design.

MR. CAPPELLO: Sure.

CHAIRMAN EWASUTYN: We're looking for cooperation on this, and right now, and even the first time, it seems like there's an answer for everything, that everything is fine the way it is. Again, we're trying to tie this in to design guidelines, we're trying to tie this in to technical issues and we're looking for a spirit that -- you've been involved in many projects with the Town, you know the overall spirit. We're looking for spirit on this, sort of a commitment to comply and not a resistance to acknowledge.

Let's continue on.

MR. ROMANO: I guess I would say with respect to the comments that Pat has identified here from a technical standpoint, they're pretty much minor in nature, something that we can certainly work with Pat to resolve. A lot of the comments were typos or just indiscrepancies in

1
2 the current plan model, nothing that is really a
3 red flag that says this absolutely can't work.
4 Just some typos that I can certainly revise and
5 get back to Pat, like he said.

6 The bigger factor that Pat mentioned
7 earlier is depending on, I guess, the
8 configuration and what gets, I guess, worked out
9 between the Board and the applicant as far as the
10 overall arrangement and layout. That could
11 certainly change things, and we would revise the
12 model.

13 Assuming the plan stayed as it is, I
14 don't see anything here that's very major from a
15 technical standpoint that we can't certainly work
16 with Pat and fix.

17 CHAIRMAN EWASUTYN: Pat, how is the
18 plan affected if they do go ahead and put in the
19 curbing and the necessary asphalt finish to the
20 parking area?

21 MR. HINES: Right now the major impact
22 would be that the plan only does water quantity
23 control, and after you go over the one-acre
24 threshold of disturbance, either redevelopment or
25 new disturbance, it will require water quality

1 control. Right now -- an example is there's a
2 dry detention pond proposed which wouldn't meet
3 DEC guidelines for water quality control. So as
4 they work through that, if in fact they are over
5 the acre disturbance, then there's a whole new
6 set of design criteria that has to be met.
7

8 MR. ROMANO: Right now, and we can talk
9 more about this, it's been our design with a lot
10 of projects done in dealing with DEC that an
11 overlay, asphalt to gravel, on top of gravel, is
12 not considered soil disturbance in terms of DEC's
13 realm of what they would consider disturbance.
14 You would have to dig down and get subbase,
15 disturb the subbase and then it's considered
16 disturbance. For example, if you had pavement or
17 even a roadway or parking lot and they were doing
18 full depth reclamation of that pavement, removing
19 the top course, going down into the subbase of
20 gravel under that, within I think six inches or
21 so, that would be considered disturbance in DEC's
22 mind. Typically overlays or milling and putting
23 a top course back down is not considered soil
24 disturbance in DEC's opinion and therefore would
25 not be included in the total soil disturbance

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2 number. That's something that Pat and I can
3 certainly work out as we work through it. That
4 typically has been our experience. If we did
5 include the overlay as soil disturbance, it would
6 be over like Pat said. Based on our experience
7 and our dealings with DEC, it would not be
8 considered as an overlay and we would still be
9 under an acre.

10 MR. GALLI: Let me understand this real
11 quick. If he just went and blacktopped it, like
12 what was there and just put blacktop on top of
13 it, that would be considered no disturbance?
14 That would be okay?

15 MR. HINES: We have to take a look at
16 that. We may have a difference of opinion on
17 that. Certainly --

18 MR. GALLI: That's what I'm hearing.

19 CHAIRMAN EWASUTYN: Let's talk about
20 what the code is as far as binder and top.

21 MR. HINES: That's the issue. I
22 believe, it's been the Board's position on many,
23 many projects, that once required parking is
24 determined to be the required parking, that it
25 needs to be developed as parking. So there's the

1 need for curbs, adequate subbase, pavement
2 sections. It's not an overlay, it's an actual
3 pavement section that would be required.
4

5 Obviously this is going to be open to the general
6 public and the Board has that public health,
7 safety and welfare reason to review that to make
8 sure that it is for the general public to

9 utilize. You have never approved a commercial
10 site plan with required parking that did not have
11 curbing, even if it was an existing gravel area.

12 You've had residential structures that have come
13 before you changed into office buildings and you
14 required parking to be developed with curbing and
15 drainage in line with your standards. There will

16 be landscaping. You need a certain amount of

17 landscaping in your required parking. Those

18 areas certainly will be additional disturbance.

19 That's something we have to look at as the plan

20 gets developed. They're close right now. Are

21 they going to be over the acre, I don't know yet.

22 We're going to have to take a look at that and

23 see what develops. We just did a quick

24 calculation on just dividing the raw square

25 footage of 5,000 square foot by the 15 square

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2 foot per person required, and that's raw square
3 footage obviously, and there's a potential for
4 330 people in the structure. Obviously there's a
5 need for aisle space and kitchens and other
6 support stuff. It's a rather large building so
7 we're going to have to get a handle on that
8 occupancy based on the parking. If the occupancy
9 is limited to that and 62 is the number of
10 required parking, that's what needs to be
11 developed. I want to make sure that the
12 applicant is not building something that they're
13 saying 197 now and they have all intentions of
14 having maybe more than that and it doesn't affect
15 their business plan or something that's going to
16 limit that occupancy to something that doesn't
17 work for them. It's something they need to take
18 a look at.

19 CHAIRMAN EWASUTYN: Other comments from
20 Board Members. Joe Profaci?

21 MR. PROFACI: No.

22 CHAIRMAN EWASUTYN: Tom Fogarty?

23 MR. FOGARTY: I mean I'm just listening
24 here. I'm looking at this new building, which is
25 definitely an improvement over what exists now.

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2 I hate to see a nice looking building have a
3 second class parking lot, you know. If you're
4 going to go and do it right, then do it right the
5 whole way and put in a parking lot that is
6 according to code and is sufficient.

7 CHAIRMAN EWASUTYN: Thank you.

8 MR. FOGARTY: Right now that's the way
9 I look at it.

10 CHAIRMAN EWASUTYN: John Ward?

11 MR. WARD: It's going to be a
12 restaurant where it should go by the guidelines
13 as a parking lot with lines for parking, blacktop
14 to appropriate standards, and appropriate
15 lighting and curbing.

16 On your picture there you have a
17 stonewall along 9W, twenty-four feet. You don't
18 have it on the plan itself where things like that
19 have to be shown to us.

20 MR. MINUTA: I'd be happy to address
21 that if you'll allow me. Our previous
22 application indicated stonewalls in the spirit of
23 compliance with the design guidelines. When we
24 were here last we were informed that the
25 Department of Transportation does not allow that,

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therefore the wall has been removed, the stonewall, from the front of the property.

CHAIRMAN EWASUTYN: How come they don't allow it?

MR. MINUTA: Pardon?

CHAIRMAN EWASUTYN: Why don't they allow it?

MR. MINUTA: That was in the minutes of the last meeting. It was not permitted along that area due to, I believe it was visual.

Is that correct, Karen?

MS. ARENT: Nobody said that it's not allowed by the DOT. I think that we were asking you to check and see if it was allowed.

MR. MINUTA: Okay. I'm happy to re-look at those minutes.

MS. ARENT: It doesn't really matter what the minutes -- well, look at the minutes but the intent is to make sure that you're not blocking sight lines with the stonewall and to make sure that the DOT will allow a stonewall.

MR. MINUTA: I'm very happy to look at that. My recollection is that it was not allowed by DOT. If you want it, if it's allowed, we're

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happy to put it in.

MR. WARD: It looks appropriate for 9W right there as a site for the restaurant.

MR. MINUTA: Thank you. Just a clarification. There are different definitions for this project. We are an eating and drinking establishment and not a restaurant.

MR. WARD: Thank you.

MR. MINUTA: If I may just address Mr. Hines' comments for a moment.

CHAIRMAN EWASUTYN: Go ahead.

MR. MINUTA: With respect to the occupancy load, the occupancy would be a net for its use, and we have a lot of areas that are not net occupant areas, such as kitchen and storage and things of that nature.

MR. HINES: We just did a rough to get a handle on the numbers.

MR. MINUTA: Just trying to cooperate.

MR. DONNELLY: Joe, back to the wall just for a second. It touches on the issue the Chairman raised earlier, and that is you have a plan that doesn't comply with the site guidelines because you have the parking lot in the front.

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2 While I think there's some willingness to discuss
3 waiver of that guideline, some part of that is
4 going to have to be some type of screening or
5 protection of those parking areas from the view
6 on the street. Stonewalls in the past and
7 stonewalls I think even on 9W, certainly on 17K
8 and 300, the State roads, have been a method with
9 some landscaping that has worked to satisfy the
10 Planning Board and allowed that design waiver to
11 occur. I think there's room for discussion on
12 that, but without something that's going to make
13 that work, the only other way is to comply with
14 the design guidelines, swing the building around
15 and put the parking in the rear. John had said
16 that was an issue that needs to be touched upon,
17 and I think talking about the wall is something
18 that brings it to a head.

19 CHAIRMAN EWASUTYN: Thank you, Mike. I
20 think that summarizes it. As we discussed at the
21 work session, the alternative would be to have
22 the building move up front and the parking in the
23 rear. We're trying to work with you --

24 MR. MINUTA: I appreciate that. Thank
25 you.

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CHAIRMAN EWASUTYN: -- and cooperation.
You're quick with answers.

MR. MINUTA: I know the project.

CHAIRMAN EWASUTYN: Sometimes
uncomfortably quick.

MR. MINUTA: I'm sorry about that.
Thank you.

CHAIRMAN EWASUTYN: We're here to meet
your standards. If we don't comply then, you
know, you're running out of time with us. It's
hard to understand, it really is.

Karen, do you want to continue your
conversation?

MS. ARENT: Sure. With respect to the
stonewalls, you may have to locate them further
away from where they were previously located so
they don't block sight lines and are in
compliance with DOT. I think I'm starting to
remember previously a project which was Laxmi
Doughnuts or Laxmi Dunkin Donuts where the DOT
asked for the stonewall to be moved back further
from the property line. That's something you're
going to have to work out with the DOT if you
still want to keep the parking up front and put

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in the stonewall. You just have to work with them to figure out where it's allowed to be located.

And then landscaping is also another method that can be used in conjunction with the stonewalls to provide screening. The landscaping would have to be high enough to screen the cars.

MR. MINUTA: I do have a question. Regarding the property lines and planting outside the property lines, is that permitted, to plant on someone else's property?

MS. ARENT: It usually allows, on projects I've worked on, thirty inches or less plantings in the right-of-way.

MR. MINUTA: Thank you.

MS. ARENT: Again, that's something you would have to go over with them to make sure that they're okay with that. They have other criteria they look at as well.

And then there's -- some of the islands don't have any plantings. Basically my concern is that the whole front of the site very visible with nothing to relieve the visibility of the parked cars, no landscaping. There's a couple of

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trees but there's nothing of height. There is Blue Rug Juniper, Pennsylvania Sedge. They're all plants that grow about six inches tall.

MR. MINUTA: Okay.

MS. ARENT: And then on your plan also say how the DOT right-of-way will be improved, whether it's just topsoil and lawn or something so that you have nice landscaping on your site and it extends out into the DOT right-of-way.

MR. MINUTA: Thank you. Our intent was grass. That should have been noted on the plan.

MS. ARENT: And Devito Drive, that's the entrance to a residential community and that should be landscaped in accordance with the guidelines. And a buffer between the parking and the road should be shown as well as street trees.

And then screen the stormwater management area from that roadway. That's another thing the Town usually requires.

And then in your new set of documents please include details of planting islands because in the past when planting islands are put on to an existing gravel base, sometimes they only put six inches of topsoil on top of the

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gravel and then the plants don't live. If you could just show a section and the depth of the planting in the island itself. I know you have the tree planting details. If you could just show an island detail as well, that would be great.

MR. MINUTA: I'm happy to do so.

MS. ARENT: And that's it. The other things are minor.

Just to label the existing woods. That's it.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: A couple things were already touched upon, so I'll just skip over those.

A signed and sealed survey sheet is going to be required with the next submission.

If you could, the next time you come back in with architectural drawings, just provide the materials and colors.

A detailed signage plan is going to be needed showing the existing signage or whatever is going to change on the retail building on the

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new signage.

The lighting plan was submitted but you need to get details on the height and the type of fixture proposed.

The last time there was a wood fence in front of part of the gravel parking lot and a stonewall for the rest. You just have to detail each one of those and where they're going to go.

The Planning Board is going to have to declare their intent for lead agency if they feel the plan is ready. They have to be circulated to the Orange County Health Department, Orange County Planning Department, New York State DOT, Town of Newburgh Highway Department and also the DEC.

CHAIRMAN EWASUTYN: Thank you. At this point I would be very curious to hear from the owner of the project as far as our comments, your review and his overall spirit of what he's looking to do. It would be nice to meet you, to hear from you.

I'll be speaking for the Board Members. We're wrestling with something we're not looking to wrestle with and I would like to -- again, the

1
2 action tonight is to give conceptual approval,
3 declare our intent for lead agency and move
4 forward with the review of the project, the
5 engineering of it, but we have to find a common
6 ground of cooperation which I think we don't
7 sense we have. So we're here to work with you
8 and we have to know where we may be conflicting
9 with you or what you're surprised about. To see
10 you there and not hear from you, I feel like
11 we're not servicing you well enough. So please.
12 For the record, your name?

13 MR. SLIPSTEIN: My name is Keith
14 Slipstein, I'm the owner of this project as well
15 as other projects in the Town of Newburgh as well
16 as in the City of Kingston. I'm looking to put
17 forth the best product I can, which I like to do
18 things first rate. I don't know if you're
19 familiar with the Steel House in Kingston.
20 That's one of my projects. I took a building from
21 1896, converted it, changed it to a beautiful
22 restaurant/catering facility on the waterfront.
23 I worked hand in hand with the town. I put up a
24 park next to my building which wasn't required.
25 They asked me for more green space, I built a

1
2 beautiful park. I'm looking for something that
3 enhances the corridor. If there's ways we can
4 work hand in hand and both strive towards the
5 final goal, I'm more than happy to, you know, do
6 my part.

7 CHAIRMAN EWASUTYN: You're in a very
8 active area. Quick Chek will be building
9 alongside of you complying with the design
10 guideline standards. They put the canopy,
11 correct, and the pump islands on the side of the
12 building rather than the front of the building.
13 Architecturally they designed the building to be
14 aesthetically pleasing. They put in stonewalls,
15 they put in landscaping. We're reviewing a
16 similar 8,000 square feet C store across from
17 Stewart's on 9W and the same concept is being
18 applied. We recently approved the Ira Conklin
19 daycare center where there's a clean up of a
20 stonewall and such. U-Haul is presenting a
21 stonewall and aesthetically pleasing landscaping
22 in the front, realizing of course that they will
23 have parking along the Route 9W corridor which
24 isn't in compliance with design guideline
25 standards. In the spirit of developing 9W, which

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has been somewhat of an eyesore to the Town of Newburgh, we welcome having you. We're just looking to sort of -- we're planning twenty years down the road Keith, so we need you to sort of help pioneer it with us.

MR. SLIPSTEIN: I'm right there with you. I plan on being here twenty years down the road.

CHAIRMAN EWASUTYN: I wish you all the success down the road.

MR. SLIPSTEIN: Thank you.

CHAIRMAN EWASUTYN: Anything else from anyone?

MR. CAPPELLO: If I could conclude and just summarize.

CHAIRMAN EWASUTYN: Please.

MR. CAPPELLO: I think the location of the building -- what I'm hearing, because we are a little bit constrained on the site with the location of the existing parking, we understand we have to address the consultants' issues. In order to provide the building solar access and to work around the existing building and preserve the woods, knowing that we have to make you happy

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2 with the site and potentially a stonewall, that
3 you are willing to consider the parking in front.
4 I think that's a threshold issue that we need to
5 get past, knowing that we have some work to do
6 but that if we do that work there is a way to
7 please you versus doing that work and you saying
8 no, the design guideline says put the building in
9 front. That would be a good indication to us
10 that we are working towards the same goal, and
11 that if we do come up with something to please
12 you, that the parking in the front is not
13 something that could not be overcome.

14 CHAIRMAN EWASUTYN: I'll turn to the
15 Board Members. Frank Galli?

16 MR. GALLI: It's fine. As long as you
17 comply with what we -- we want to make it look
18 nice. I've been to the Steel House numerous
19 times. The place is beautiful. The Kingston
20 waterfront is beautiful.

21 CHAIRMAN EWASUTYN: Joe Profaci?

22 MR. PROFACI: Do something that's
23 pleasing and in the spirit of what we've been
24 talking about and I don't have a problem.

25 CHAIRMAN EWASUTYN: Tom Fogarty?

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MR. FOGARTY: I don't have a problem with that. I want to see a nice project. You have a nice building, let's build a nice parking lot.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: As long as you follow the guidelines and what we've been saying. That's why they're established for the Town of Newburgh. Like John said, we're trying to do the right thing along 9W to make it beautiful. So thank you.

CHAIRMAN EWASUTYN: Okay John?

MR. CAPPELLO: Yes.

CHAIRMAN EWASUTYN: Thank you. At this point I'll move for a motion to grant -- I'll make a multi motion -- to grant conceptual site plan approval for Santa Monica Holdings, to declare our intent for lead agency.

MR. FOGARTY: So moved.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty.

MR. PROFACI: Second.

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

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(No response.)

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

MR. GALLI: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Joe, if you would make it a point of getting plans to Bryant Cocks and Bryant will do the circulation.

MR. MINUTA: Which sort of plans?

CHAIRMAN EWASUTYN: We have to circulate to the Orange County Planning Department, the Orange County Health Department, the DOT, the DEC, so site plans.

MR. MINUTA: Thank you.

CHAIRMAN EWASUTYN: You can speak to Bryant.

MR. GALLI: A public hearing?

CHAIRMAN EWASUTYN: It's too early. We didn't -- oh, okay. If you want to discuss that now or wait until later.

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MR. GALLI: I think they ought to know up front. We don't have to set it up yet. At least they should know what they're going to be facing and stuff.

CHAIRMAN EWASUTYN: This is discretionary, up to the Board, whether or not they do want to have a public hearing on the site plan. Frank Galli moved for a motion to poll the Board Members to see if they want to have a public hearing. I'll start with Frank Galli.

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: Yes.

MR. FOGARTY: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Myself yes.

So at some point in the process after we make a SEQRA determination, we'll set it up for a public hearing. Thank you.

(Time noted: 8:05 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: September 2, 2010

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

----- X

In the Matter of

U-HAUL
(2000-59)

5336 Route 9W
Section 9; Block 3; Lots 32 & 66
B Zone

----- X

CONCEPTUAL SITE PLAN
ARCHITECTURAL REVIEW BOARD

Date: August 5, 2010
Time: 8:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: STEPHEN GABA

----- X

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

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2 MR. PROFACI: The final item on the
3 agenda tonight is U-Haul. It's a conceptual site
4 plan, ARB. They're located at 5336 Route 9W,
5 Section 9; Block 3; Lots 32 and 66 in the B Zone.
6 I don't know who the rep is.

7 MR. GABA: Steve Gaba, I'm the attorney
8 for U-Haul. This is Frank Valdina, our engineer,
9 and David Pollock from U-Haul.

10 CHAIRMAN EWASUTYN: Welcome.

11 MR. GABA: We were last here in 2008,
12 so I'll just briefly go over the property if you
13 don't mind. It's on the east side of 9W. It's
14 not quite a five-acre parcel. It consists of five
15 rectangular storage buildings, there's a small
16 square-ish rental office. It's located in the B
17 district.

18 What the applicant would like to do is
19 to construct a new building here on the northern
20 part of the property, move the office into the
21 building along with some additional storage
22 spaces and amenities such as selling of boxes and
23 accessories.

24 There's additionally a component of the
25 use which allows for rental moving vehicles,

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U-HAUL

U-Haul vehicles. They will park also in front of the building here, to the northern part.

When we came here in 2008 we presented a plan similar to but not quite exactly the same as this one here which shows the building's footprint and a few additional amenities. We have the landscaping in the front, putting in some fencing and the like.

In June of this year the Town Board adopted a local law creating a self-storage overlay district. Our property falls within that. It may induce a legal conforming use. We conform to the provisions of that law. And so, what we've done is we took the comments that were received from the Board's consultants in 2008, tweaked the plans somewhat to conform more to them, and now we're back before the Board hoping to move forward with this proposal.

Frank Valdina is here, he's going to go over briefly the elements of it. I think mostly what we're here for is to address the comments that your consultants might have on the use.

CHAIRMAN EWASUTYN: I would like to have the opportunity of having Frank speak.

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Thank you.

MR. VALDINA: Thank you. The main items that have been resolved based on the conversation with the consultants on the original plan, the project now includes curbing along the front along Route 9W in conjunction with a stonewall, a berm and landscaping atop of the berm.

Also on the existing travel way the road will be widened to the maximum physical possible extent, the minimum being twenty-four feet with the new structure having a twenty-six foot wide aisle capacity in conjunction with the New York State building code requirement for a structure of this size where an engine and a ladder can have access to the building.

Curbing is also proposed along the parking of the existing site. As was mentioned, it is proposed to have parking along the front of the new building, however the parking that currently exists in front of the existing buildings will be eliminated. The reason for the parking here is because of the retail aspect right in front of the building, you have people

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2 park nearer the building and then proceed to the
3 front.

4 Also in conjunction, along the way of
5 operation is when trucks are returned they park
6 in here and go to the office here, they leave.
7 This way you would bring the truck and park it
8 over on the north side where we have parking for
9 the truck.

10 We have reviewed the comments on this
11 latest set of plans from the consultants. We
12 really don't have basic differences of opinion.
13 We may have to discuss in particular stormwater
14 management with Mr. Hines, basically because
15 there seems to be three sections in the Town code
16 covering drainage. We want to make sure that the
17 final product is what the Town wants. That will
18 have to be in conjunction with Pat and possibly
19 the town engineer.

20 Other than that, the concerns that were
21 raised, the questions will be addressed and
22 responded to accordingly.

23 CHAIRMAN EWASUTYN: Mr. Valdina,
24 besides being a licensed PE in New York State,
25 you also serve on one of the local fire

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departments?

MR. VALDINA: Yes.

CHAIRMAN EWASUTYN: And can you give us your title with that and experience?

MR. VALDINA: My title with the fire department, I'm the commissioner with the Goodwill Fire District. I've been a volunteer with the Goodwill Fire Department for over twenty-five years.

CHAIRMAN EWASUTYN: And from your professional experience, as you said the circulation around the building, and especially with the north side of the building having rental vehicles, to allow for proper fire service and --

MR. VALDINA: The parking along the north side of the building will still leave sufficient access, twenty-six feet minimum space between the building and here. That's the code requirement.

CHAIRMAN EWASUTYN: At this point I'll turn to Jerry Canfield, Code Compliance. Jerry?

MR. CANFIELD: Along with what Frank had said, the twenty-six drive aisles comply.

The one question that I did have,

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2 Frank, was the turning radius. Again, the
3 building being an overall height of thirty-four
4 feet, it's going to require aerial device
5 protection, a ladder truck, a vehicle with a
6 wheel base of approximately 270 inches. If we
7 could just display that we will not have a
8 problem negotiating around the building. Perhaps
9 a turning diagram of vehicular movement on the
10 site.

11 Another issue, which I spoke with Frank
12 about before, the building is required to be
13 sprinklered, --

14 MR. VALDINA: Yes.

15 MR. CANFIELD: -- but because of the
16 size of the building and the classification, by
17 the building code it's an S-1 commodity, the size
18 of 73,000. It's a New York State requirement
19 also. The Town has a sprinkler requirement. I
20 say this because it's a State building code
21 requirement, it's not subject to a local
22 variance. Okay. Just so you know. The water
23 main is on that side of 9W also.

24 MR. VALDINA: We don't anticipate -- it
25 is proposed to sprinkler the building.

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MR. CANFIELD: Good. And then along with that, because of the sprinkler system, back flow prevention is required also. Those are the big ticket items fire protection wise. That's all I have.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Just a couple comments on the initial. The brown shaded parking, is that a pervious asphalt pavement? It's not just aggregate, item 4?

MR. VALDINA: It shows the aggregate. That's one of the things we wanted to discuss.

MR. HINES: During the work session I described that to the Board and we feel that the porous pavement is an acceptable method. Certainly aggregate is not for a commercial project.

MR. VALDINA: I noticed that also.

MR. HINES: We're okay with that.

Also, I had the opportunity to speak with Mr. Valdina regarding the project and his comments regarding the stormwater management. It's our opinion that the underground storage

1
2 detention facility shown meets the intent of the
3 Town's code where it requires detention ponds for
4 self-storage facilities. So the fact that there
5 is detention shown, and we'll get a report
6 showing that adequate detention is shown, we're
7 okay with that, that it doesn't necessarily need
8 a surface pond design. We're okay with the
9 concept of underparking storage.

10 Water and sewer utilities need to be
11 shown on the site. We don't have that right now.

12 There needs to be a septic system
13 somewhere.

14 MR. VALDINA: Right. It's going to be
15 probably along the property line. The existing
16 system is way down here and can't be utilized.
17 It's just too remote to utilize even though the
18 capacity -- the original design is sufficient.
19 We have to pump to get through it so it's a more
20 feasible service system by gravity. That will be
21 part of the design, part of the submittal.

22 MR. HINES: That's all we have.

23 CHAIRMAN EWASUTYN: Thank you. Bryant
24 Cocks, Planning Consultant?

25 MR. COCKS: Sure. As mentioned, this

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is in the new self-storage overlay zone so it is an allowable use.

The proposed building meets all setback requirements. The existing buildings do not but since the degree of nonconformity isn't being increased, no variances will be necessary.

The scale on the map is wrong. It's stated 1 to 30. That needs to be fixed.

We already talked about the Town design guidelines and having the parking in the front. You are providing screening, so the Planning Board can discuss a possible waiver of that.

When you put in the porous pavement for the rental trucks and rental trailers, is it going to be striped up there or are they just going to be placed in the corner up there?

MR. VALDINA: The intent was just to place them because we don't know what size vehicles are coming in when. It gives a little flexibility.

MR. COCKS: The three larger parking spaces in the front, is that for rentals also?

MR. VALDINA: As I mentioned, when they return the vehicles they'll just temporarily park

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2 them in there. The employees will park them in
3 the storage area along the north side of this
4 project.

5 MR. COCKS: Okay. The site plan stated
6 that the refuse containers are going to be inside
7 the building.

8 MR. VALDINA: There's one refuse
9 container here which is only for employees' use.
10 It's locked. The employees would unlock it to
11 get in when they sign for pick up. The employees
12 roll the container out, make the pick up and lock
13 it up. It's not for utilization of the
14 individuals utilizing the storage area.

15 MR. COCKS: Okay. The adjoining
16 landowners' names should just be added to the
17 plan along with the section, block and lots.

18 The signage plan that was shown, there
19 was no comprehensive signage plan showing any
20 changes to the existing --

21 MR. VALDINA: We'll submit a signage
22 plan with the next submittal.

23 MR. COCKS: And a lighting plan is
24 going to be necessary --

25 MR. VALDINA: Right.

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U-HAUL

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MR. COCKS: -- with the details of the fixtures.

As mentioned, DOT approval is going to be needed for the driveway entrance.

MR. VALDINA: We need an entrance permit.

MR. COCKS: The plans are going to need to be forwarded to the Orange County Planning Department.

The Planning Board is also going to have to declare their intent for lead agency. I'm sorry, they have already. We can just resend them.

Just the EAF should be revised to state the threatened and endangered species information.

Add the self-storage overlay district as the zoning classification.

MR. VALDINA: Yes.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: The stone veneer that's chosen for the wall and the building should match as much as possible the local indigenous stone.

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2 If you could, the next time, or whenever you're
3 coming for approval for architectural and the
4 site plan, if you can bring a sample of the
5 stonewall, and make sure it's labeled on all the
6 drawings.

7 You need to establish a landscape plan
8 with a plant list, sizes, details. I didn't put
9 this in my comments but make sure you show a
10 detail of any planting pits that are in the
11 gravel areas. Just make sure sufficient soil is
12 there.

13 MR. VALDINA: I picked up on that
14 previously.

15 MS. ARENT: There is like a buffer area
16 or landscape areas shown but we need to know
17 exactly where the existing vegetation will remain
18 and where it will be.

19 MR. VALDINA: In here. It will be
20 shown on the plan.

21 MS. ARENT: That area needs to be
22 graded. You can show more landscaping in there
23 if you're going to take out the existing --

24 MR. VALDINA: We'll show a plan that
25 shows the existing trees. It may be on the site

1
2 also. The final grading plan will be presented
3 and show whether there is or isn't any impact on
4 the existing trees. If so, if the intent is to
5 retain them, how we're going to protect them.

6 MS. ARENT: If you can't protect them
7 just show the screening where necessary.

8 Then you have -- do you have a copy of
9 my comments to put the tree protection notes on
10 the drawing?

11 MR. VALDINA: Yes.

12 MS. ARENT: And just include a signage
13 chart that lists all the square footage of signs.

14 MR. VALDINA: A complete signage plan
15 will be presented.

16 MS. ARENT: We want to make sure that
17 the monument sign --

18 MR. VALDINA: Meets the 222 square feet
19 we're allowed.

20 MS. ARENT: Thank you. And we also
21 need to know how your signs are illuminated. If
22 those details could be put on the drawing.

23 CHAIRMAN EWASUTYN: Comments from Board
24 Members. Frank Galli?

25 MR. GALLI: We have a label that says

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hitch bay. Are you going to be hitch bay or are you going to be servicing vehicles on site?

MR. VALDINA: No servicing of vehicles on site.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: That's it?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing, John.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No comments.

MR. WARD: I just was going to say following the guidelines for the lighting and the height, thirty-five feet and just --

MR. VALDINA: The lighting basically will be affixed to the building itself.

MR. WARD: Being a three-story building, just make sure it's not above thirty five. Thank you.

MR. GALLI: There was one other question brought up at the workshop about the scale, the map to the 73 feet, 73 percent --

MR. HINES: Of lot coverage.

MR. VALDINA: It will be to scale.

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MR. GALLI: Okay.

MR. VALDINA: Engineers like to scale off plans. You still scale because it's quicker. I'm one of them.

CHAIRMAN EWASUTYN: Having heard from our consultants, having heard from the Planning Board Members, finding agreement between the applicant's representative and the Planning Board to cooperate with the spirit of the development of Route 9W, I'll move for a motion to grant conceptual approval for the U-Haul site plan on Route 9W and to circulate to the Orange County Planning Department.

MR. GALLI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Tom Fogarty. 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. PROFACI: Aye.

MR. FOGARTY: Aye.

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MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mr. Valdina, if you'll see to it that Bryant Cocks receives plans so he can circulate to the Orange County Planning Department.

MR. VALDINA: I'll be in touch to see how many he needs.

CHAIRMAN EWASUTYN: Just as a matter of moving forward, when the time comes that you do get conditional site plan approval, and then there's always -- eventually you'll be providing a cost estimate for landscaping to Karen Arent.

Karen, tell him what you do with that.

MS. ARENT: I review the landscape estimate, make sure it's in accordance with the approximate local prices and forward it to the Town Board for their consideration, and they vote on whether or not to approve it. If they approve it, then a bond is posted at the time of construction. There's notes that are put on the drawing that Bryant will let you know what to put on the drawing. If you want it delay the posting of the bond until the building permit --

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MR. HINES: There's similar bonding for the stormwater management facilities, too.

CHAIRMAN EWASUTYN: At some point in time in the process, that's a point they may be addressing or could have addressed a little early on.

Great. Thanks.

MR. VALDINA: Thank you.

CHAIRMAN EWASUTYN: I'll move for a motion to close the August 5th Planning Board meeting.

MR. GALLI: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:25 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: September 2, 2010