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

----- X

In the Matter of

LANDS OF MARY & MICHAEL KEANE  
(2006-50)

North side of Pavilion Drive off Route 9W  
Section 9; Block 1; Lot 4  
B Zone

----- X

PUBLIC HEARING  
THREE-LOT SUBDIVISION

Date: August 6, 2009  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: STEVEN PAULI

----- X

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

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MR. BROWNE: Good evening,  
gentlemen. Welcome to the Town of  
Newburgh Planning Board meeting for August 6,  
2009.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

CHAIRMAN EWASUTYN: Here.

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

MR. DONNELLY: Michael Donnelly,  
Planning Board Attorney.

MS. CONERO: Michelle Conero,  
Stenographer.

MR. CANFIELD: Jerry Canfield, Town of

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Newburgh.

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

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

MR. BROWNE: And now I'll turn it over  
to Joe Profaci.

MR. PROFACI: Please join us in a  
salute to the flag.

(Pledge of Allegiance.)

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

MR. BROWNE: The first two items of  
business we have this evening are public  
hearings. The first one is a three-lot  
subdivision for the lands of Mary and Michael  
Keane being represented by --

MR. PAULI: Steve Pauli, Brooks &  
Brooks.

MR. BROWNE: Thank you. This is a  
three-lot subdivision. Normally we would ask  
Mike to give a little brush on what public  
hearings are about.

MR. DONNELLY: There are two public



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2 MR. MENNERICH: "Notice of hearing,  
3 Town of Newburgh Planning Board. Please take  
4 notice that the Planning Board of Town of  
5 Newburgh, Orange County, New York will hold a  
6 public hearing pursuant to Section 276 of the  
7 Town Law on the application of lands of Keane for  
8 a three-lot subdivision on premises Pavilion  
9 Drive off Route 9W in the Town of Newburgh,  
10 designated on Town tax map as Section 9; Block 1;  
11 Lot 4. Said hearing will be held on the 6th day  
12 of August 2009 at the Town Hall Meeting Room,  
13 1496 Route 300, Newburgh, New York at 7 p.m. at  
14 which time all interested persons will be given  
15 an opportunity to be heard. By order of the Town  
16 of Newburgh Planning Board. John P. Ewasutyn,  
17 Chairman, Planning Board Town of Newburgh. Dated  
18 July 7, 2009."

19 MR. GALLI: The notice of hearing was  
20 published in The Sentinel and The Mid-Hudson  
21 Times. The applicant's representative sent out  
22 four mailings, three were returned. The  
23 publications and mailings are in order.

24 CHAIRMAN EWASUTYN: At this point I'll  
25 ask Steve Pauli if he would give a presentation

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on the three-lot subdivision.

MR. PAULI: Okay. I do have that fourth return receipt that I can hand in to you.

MR. GALLI: Thank you.

MR. PAULI: Michael and Mary Keane on Pavilion Drive propose a three-lot subdivision. One lot would have the existing house on it and two new building lots.

There's access off of Pavilion Drive. It's a common driveway so a driveway maintenance agreement has been filed. They'll share the responsibilities. The driveways are accessed off of Pavilion Drive which is a private road, and to do that they needed to have an agreement with the adjoining property owners, Middlehope Fire Department, Scott Corporation.

This is a surveying sheet.

There are two other sheets behind this, the engineered plans for the septic.

That's pretty much it.

CHAIRMAN EWASUTYN: As Mike had said earlier, anyone who has any questions or comments, would you please raise your hand and give your name and your address for the record.

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(No response.)

CHAIRMAN EWASUTYN: There being no interest from the public, at this time I'll turn to our consultants for their recommendations. Jerry Canfield?

MR. CANFIELD: Our previous comments have been addressed. Also, there is a road maintenance agreement which has been fully executed with the fire department that owns the adjoining property and the other property owner there.

We have nothing additional.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: All of our previous comments were addressed.

We had one outstanding comment regarding a note for the septic. That's been added to the most recent set of plans, so we have no outstanding issues.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Just a note that three variances were granted for the existing house on

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LANDS OF MARY & MICHAEL KEANE

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lot 1, the front yard setback variance, the side yard setback variance and a lot width variance.

We have no other comments other than that.

CHAIRMAN EWASUTYN: Final comments from Board Members. Frank Galli?

MR. GALLI: No further comments.

MR. BROWNE: None.

MR. MENNERICH: No questions.

MR. PROFACI: Nothing, John.

MR. FOGARTY: No comments.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: We'll ask the audience one more time if there's anyone here that has any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: At this point, there being no questions or comments from the public, I'll move for a motion from the Board to close the public hearing for the three-lot subdivision.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli.



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MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: 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.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this time I'll turn to Mike Donnelly, our Planning Board Attorney, to give us conditions for final approval.

MR. DONNELLY: First we'll carry forth the reference to the Zoning Board of Appeals variance decision. We will need a common driveway easement and maintenance agreement. As Jerry has pointed out, we have been provided with a copy of it as well as the Middlehope Fire Company agreement. I can't tell from a copy

1                   whether it's been recorded so I'll make sure with  
2                   Mr. Bloom, who drew the agreement, it is in fact  
3                   recorded. The proposed houses, some of them are  
4                   shown very near the edge of the property line,  
5                   therefore we'll require the foundations be staked  
6                   in the field before the pouring of concrete or  
7                   any other excavation is conducted to verify.  
8                   There is a requirement that a parkland fee be  
9                   paid for each of the two new lots in the  
10                  subdivision. That fee would be in the total  
11                  amount of \$4,000. By virtue of action taken by  
12                  the Town Board last month, the payment of that  
13                  will be delayed until issuance of the first  
14                  building permit for any of the structures on any  
15                  of the lots in the subdivision. The requirement  
16                  of that deferral is that the applicant sign an  
17                  acknowledgement that he understands that that fee  
18                  will be due. So that paperwork will have to be  
19                  signed before the plans are signed. Certain  
20                  notes must be carried on the map that reflect  
21                  that. So we'll need a sign-off letter from  
22                  Bryant Cocks that those map notes have been added  
23                  to the plans, --

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25                                   MR. PAULI: Okay.

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MR. DONNELLY: -- and that the acknowledgement and certification have been signed.

MR. PAULI: Okay. Who draws up that certification?

MR. DONNELLY: We will do it here at the Town Hall.

MR. PAULI: Okay. So you'll be able to supply that?

MR. DONNELLY: I guess we'll ask Mark to provide you, or I can provide you with blank copies.

MR. PAULI: I know Mr. Keane, he has no problem driving right over to the Town Hall here. So we'll be able to let him know once that's done.

Note 12 states the foundations of the dwellings proposed on lots 2 and 3 shall be staked by a licensed professional prior to digging. There was something additional to that that you wanted?

MR. DONNELLY: That's good. I'm going to carry the same condition in the resolution itself.

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LANDS OF MARY & MICHAEL KEANE

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MR. PAULI: Okay.

CHAIRMAN EWASUTYN: Thank you. Having heard the conditions of approval from Mike Donnelly for the three-lot subdivision for the lands of Keane, I'll move for a motion to make that approval.

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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

Thank you, Steve.

MR. PAULI: Okay. Thank you very much.

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(Time noted: 7:10 p.m.)

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

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

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DATED: August 25, 2009

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

----- X

In the Matter of

LANDS OF DZIEWIATOWSKI  
(2007-06)

296 Forest Road  
Section 1; Block 1; Lot 118  
AR Zone

----- X

PUBLIC HEARING  
THREE-LOT SUBDIVISION

Date: August 6, 2009  
Time: 7:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: HOWARD WEEDEN

----- X

MICHELLE L. CONERO  
10 Westview Drive  
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(845)895-3018

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MR. BROWNE: The next item of business we have is the second public hearing, a three-lot subdivision for the Lands of Dziejewiatowski.

Close?

MR. DZIEWIATOWSKI: That was close.

MR. BROWNE: It's being represented by Howard Weeden.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Lands of Dziejewiatowski for a three-lot subdivision on premises 296 Forest Road in the Town of Newburgh, designated on Town tax map as Section 1; Block 1; Lot 118. Said hearing will be held on the 6th day of August 2009 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated July 7, 2009."

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2 MR. GALLI: The notice of hearing was  
3 published in The Sentinel and The Mid-Hudson  
4 Times. The applicant's representative sent out  
5 twenty-six registered letters, twenty-four were  
6 returned. The publications and mailings are in  
7 order.

8 CHAIRMAN EWASUTYN: Thank you.

9 Howard, can you make your presentation,  
10 please?

11 MR. WEEDEN: Thank you, Mr. Chairman.

12 CHAIRMAN EWASUTYN: Howard Weeden who  
13 represents the applicant is going to give a  
14 presentation.

15 MR. WEEDEN: This is a three-lot  
16 subdivision of the Lands of Dzieriatowski on  
17 Forest Road -- on the east side of Forest Road  
18 just south of the Ulster County/Orange County  
19 line. He currently owns fifty-two acres with an  
20 existing house, septic and well on it. Proposed  
21 lot 1 is shown as a one-acre lot with his house,  
22 septic and well on it. Proposed lot 2 is another  
23 proposed house, septic and well on a one-acre  
24 lot. Lot 3 would be the remaining lands. We're  
25 not developing that. We're leaving that for



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agricultural use at this time.

We've done our soils testing. We had to go to the Zoning Board of Appeals previously to get relief from the sheds that were on lot 2. There's a note to that effect right on the subdivision map.

We've contacted the Orange County Department of Public Works for our access for the driveways, and that's been shown on the map also.

We've got the letter from Pat Kennedy for the road dedication portion along the front of the property.

I believe Mr. Hoyt sent something to the attorney, the Town attorney, for the driveway easement and driveway maintenance agreement.

I believe at the last Planning Board meeting the only thing that the Planning Board wanted was the shed to be removed, the one shed.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to the public for their comments. Is there anyone here this evening?

(No response.)

CHAIRMAN EWASUTYN: Okay. I'll turn to Jerry Canfield. Jerry, your comments for the

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LANDS OF DZIEWIATOWSKI

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Board.

MR. CANFIELD: Just one. Future demolition of the existing structures will need demolition permits.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: All of our previous comments have been addressed.

CHAIRMAN EWASUTYN: Pat, for the record you have a letter there that we received.

MR. HINES: One of our outstanding comments was addressed by a letter that we received from the County tonight regarding filing of the offer of dedication. The County DPW has accepted, or stated they would accept that but there's a procedure with the Orange County Legislature to accept that dedication. It does state it won't hold up the approval. That addressed the comment that I had.

CHAIRMAN EWASUTYN: I believe you got a copy of that also.

MR. WEEDEN: Yes, I got a copy of that.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

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MR. COCKS: Just one comment. The applicant requested that the topography requirement for the residual lot be waived by the Planning Board. That was the only outstanding item that we had.

CHAIRMAN EWASUTYN: I'll poll the Board Members to see if the Board Members would grant the applicant a waiver not to do a complete, entire topo of the -- how many acres is that?

MR. WEEDEN: Fifty acres in lot 3, the remaining lot.

CHAIRMAN EWASUTYN: -- fifty acres for lot 3. It's not shown on the subdivision map. To waive that requirement.

MR. MENNERICH: So moved.

MR. WARD: Second.

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

MR. BROWNE: John, just to mention that we previously discussed this at a previous meeting and somehow we neglected to make that approval at that point in time.

CHAIRMAN EWASUTYN: Okay. Having had

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LANDS OF DZIEWIATOWSKI

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that discussion, we have a motion on the table made by Ken Mennerich, seconded by John Ward. Any further discussion?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to grant that waiver starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Is there anyone in the audience who would like to speak at this time?

(No response.)

CHAIRMAN EWASUTYN: There being no one in the audience wishing to speak, I'll move for a motion to close the public hearing on the three-lot subdivision for the Lands of Dzewiatowski.

MR. GALLI: So moved.

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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 ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike Donnelly, Planning Board Attorney, would you give us conditions for approval for the three-lot subdivision?

MR. DONNELLY: I'll include within the Findings section of the resolution the topo waiver that you just voted upon. We'll need a sign-off letter from -- actually, Pat, you told me all those -- your issues in your letter have been resolved?

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MR. HINES: That's correct.

MR. DONNELLY: We don't need that sign-off letter.

There is a specific condition of the ZBA approval that all structures shown to be removed and for which the variances were granted are required to be removed within one year of the date of subdivision approval. I will include that as a condition within the resolution. I'll recite that the subdivision approval is subject to issuance of demolition permits by the Town. We will need a common driveway easement and maintenance agreement. The applicant's attorney has sent me a copy. I told him on the phone that it's satisfactory but I will send the usual letter that requires that that be recorded and proof of recording be delivered to us. Similarly, we'll require that the applicant present proof that the offer of dedication has been delivered to the County before the plan is signed. Finally, under the procedures recently enacted by the Town Board, the payment in lieu of parkland for the two new lots in the subdivision that totals \$4,000 will be deferred until

1  
2 issuance of the first building permit. That will  
3 necessitate the requirement of two things; one, a  
4 map note that Town Board action dictates will  
5 have to be added to the map, and an  
6 acknowledgement and consent that the deferral  
7 will have to be signed before the plans can be  
8 signed. So I'll ask that when those issues are  
9 taken care of, Bryant Cocks sends a sign-off  
10 letter before the plat is signed to make sure  
11 they are.

12 CHAIRMAN EWASUTYN: Having heard the  
13 conditions of approval for the three-lot  
14 subdivision presented by Mike Donnelly, Planning  
15 Board Attorney, I'll move for a motion to grant  
16 approval.

17 MR. MENNERICH: So moved.

18 MR. GALLI: Second.

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

22 (No response.)

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

25 MR. GALLI: Aye.

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LANDS OF DZIEWIATOWSKI

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

Howard, would you call me tomorrow, I  
want to discuss one item with you?

MR. WEEDEN: Yes. Thank you very much.

(Time noted: 7:18 p.m.)



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

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

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DATED: August 26, 2009

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

----- X  
In the Matter of

CHESTERFIELD COURT  
(2006-21)

Lakeside Road, north of Jenny Lane  
Section 28; Block 1; Lot 14.1

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TEN-LOT SUBDIVISION

Date: August 6, 2009  
Time: 7:19 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LOU POWELL

----- X

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

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CHESTERFIELD COURT

MR. BROWNE: The next item of business we have is Chesterfield Court which is a ten-house subdivision being prepared by Lou Powell.

MR. POWELL: I'm Lou Powell from Eustance & Horowitz, engineers for the applicant, Chesterfield Court subdivision.

It is a ten-lot subdivision proposed off of Lakeside Road. One lot has access off Lakeside Road, the other is off of a Town road with an easement in the back for three driveways which we received approval from the Town Board some time ago.

We have received approval from Orange County Health Department for the water and finally from the DEC for the sewer, and DEC for stormwater.

We are ready for final approval.

CHAIRMAN EWASUTYN: Okay. We're going to turn to Pat Hines at this point to ask where you are as far as certain Town Board approvals.

MR. HINES: The preliminary resolution required the establishment of a drainage district for the operation and maintenance of the two stormwater management ponds, and we don't have

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any indication that that's been completed yet.

MR. POWELL: That hasn't been completed.

MR. HINES: At work session we discussed that would be continued as a discussion with the final approval. I know Mike Donnelly has that.

Just a couple more clean-up items. The bond estimate needs to go to Jim Osborne for the public improvements and the stormwater management facilities, so that approval will be needed.

I did have a concern, I don't know if DEC required the note on the pump stations that kind of deferred maintenance, if needed, to the Town. I just want to make sure Jim Osborne signs off on that note, too. It gave the Town right of access for repair of the pump stations. You need that for this project. There is a comment that has been included in the final conditions.

Otherwise we did receive copies of the Health Department approval, DEC approval which addressed many of the previous preliminary comments.

CHAIRMAN EWASUTYN: Karen Arent had

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some additional requirements. Does anyone remember them?

MR. HINES: Karen was concerned about the location of the fence on the detention pond or the stormwater management facility there. She'd like that moved in further, closer to the water's edge and away from both the roadways.

She had some comments on the tree species that were proposed there. That should be revised.

MR. POWELL: There were white pines.

MR. HINES: She wanted those changed.

MR. POWELL: There was a note too about something about if the trees die or something.

MR. HINES: The two-year guarantee.

CHAIRMAN EWASUTYN: Eventually you'll need to provide her with a cost estimate.

MR. POWELL: Yes.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: One comment. I believe this is subject to ARB because it's ten or more lots.

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Thank you, Jerry.

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CHESTERFIELD COURT

Bryant Cocks, Planning Consultant?

MR. COCKS: Just a couple other approvals that I'm sure will be conditions. Road name approval, a common driveway access and maintenance agreement, and also the Town Highway Department approval for the location of the cul-de-sac and the single driveway.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: No comments.

MR. FOGARTY: I basically had a concern that was answered during the work session regarding the stormwater runoff since it is so close to Orange Lake. Pat, you kind of filled me in on what is being proposed, you know, will work.

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

MR. HINES: The stormwater management plan consists of two water quality and quantity control ponds. They have been designed in compliance with the DEC guidelines to provide water quality improvements through extended detention. They detain the stormwater and

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release it over a twenty-four hour period for what's called a ninety-percentile storm in this area, 1.2 inches. Ninety percent of the storms are less than 1.2 inches of rain in twenty-four hours. That's what's referred to as the water quantity volume. Those are treated in those detention ponds prior to discharge, and they're also designed to control the larger storm events and release those at a pre-development flow rate. We've reviewed the stormwater and found it to be in compliance with those guidelines.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing.

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Bryant, you had said that there may be a requirement from the Town Highway Department to sign off on one of the lots having direct access?

MR. COCKS: Yes. I just mentioned

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CHESTERFIELD COURT

that. The one single driveway that's the bottom lot, and also the location of the cul-de-sac.

CHAIRMAN EWASUTYN: I apologize, --

MR. COCKS: That's okay.

CHAIRMAN EWASUTYN: -- I wasn't listening.

Mike, would you give us conditions for final approval for the Chesterfield Court subdivision?

MR. DONNELLY: Yes. This is a conditional final resolution. Preliminary was granted in the past. You'll need a sign-off letter from Bryant Cocks, both on the memo'd items as well as the deferral items of the payment of fees that we mentioned on the earlier projects. We also need sign-off letters from Karen and -- from Karen Arent and Pat Hines for the issues raised in their memos. The approval will be conditioned upon the Town Board creating the drainage district. It is contemplated here. We'll need highway superintendent approval for driveway access on a Town road. We need Town Board approval on the name of the proposed new roadway. I think the street tree issue is



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covered in Karen's memo. I don't know if we have all the street trees properly shown. As Jerry mentioned, we'll have the usual condition regarding the ten-lot ARB approval. My notes say we need a common driveway easement and maintenance agreement.

MR. HINES: For the three lots in the rear.

MR. DONNELLY: I'll need to see that and sign off on that. We included a condition in preliminary and we'll carry it forth in final that the clearing limits shall be marked clearly in the field before commencement of site work, and if the limits are violated the developer or lot owner shall be required to provide additional or replacement landscaping of equivalent basal area. We need to see cross-grading easements before the plat is signed. The landscape and security inspection fee will not have to be posted until the time that the first building permit is issued, however the inspection fee, which we're assuming at this point to be \$2,000 which will go into an escrow account, will have to be paid at the time the plat is signed. We

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will need a stormwater improvement security and inspection fee, a water main extension security and inspection fee, a sewer main extension security and inspection fee, a Town road security and inspection fee, an offer of dedication and payment of parkland fees for the ten new parcels. Again, that will be deferred until the time of the first building permit. So the amount of those fees is \$2,000. For ten lots it's \$20,000.

MR. BROWNE: Was the amount of landscape fee announced?

MR. DONNELLY: That isn't recited in the resolution. That's approved by the Town Board on Karen's recommendation. The inspection fee is required to be fixed in the resolution, and we'll fix it at \$20,000.

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: Comments on the conditions for final approval for the ten-lot subdivision of Chesterfield Court from the Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: None.

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CHESTERFIELD COURT

MR. MENNERICH: None.

MR. PROFACI: No, John.

MR. FOGARTY: None.

MR. WARD: No.

CHAIRMAN EWASUTYN: Having heard the conditions for final approval for the ten-lot subdivision for Chesterfield Court presented by Attorney Mike Donnelly, I'll move for a motion to grant approval.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So

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carried.

MR. POWELL: Thank you.

Mike, you'll give me that language for that recreation fee and whatever needs to be written?

MR. DONNELLY: I can send you a copy of the Town Board resolution.

(Time noted: 7:28 p.m.)

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

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

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DATED: August 26, 2009

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

----- X  
In the Matter of

ORCHARD HILLS  
(2003-41)

Route 9W & Oak Street  
Section 9; Block 1; Lot 78.1  
R-3 Zone

----- X

TWO-LOT SUBDIVISION

Date: August 6, 2009  
Time: 7:28 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

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MICHELLE L. CONERO  
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ORCHARD HILLS

MR. BROWNE: The next item of business is a two-lot subdivision being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties. I'm here on behalf of Meadow Creek Development for the Orchard Hills site plan.

We were last before the Board on the site plan, I think it was the beginning of April, and then we were subsequently in front of the Board in June for the two-lot subdivision which created the two parcels, parcel A and parcel B, parcel A being the traditional condo portion of the project in front, which is phase I, and parcel B, the town home portion of the project which was the portion that has been modified from its original approval by looping the road back around down to the emergency access out to Parr Valley.

As we discussed previously, the twenty-one lot subdivision is no longer part of the application at the rear of the property.

We submitted in early July a complete set of engineering plans and landscaping for the

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modified portion of the site. In addition, there was an amended Findings Statement also in draft form sent to the Planning Board consultants for consideration. What we have asked is that the Board review that and move it forward.

We're looking for a re-approval of the phase I site plan for the apartments. I think we need to have preliminary approval reissued for the town home portion, and, if possible, we would like to get conditional approval for the town home portion of the project.

CHAIRMAN EWASUTYN: Let's start by -- I think, Mike, procedurally we would start with the amended Findings Statement.

MR. DONNELLY: Yes, I think we should.

CHAIRMAN EWASUTYN: I'll turn to Pat Hines for his comments.

MR. HINES: We reviewed the amended Findings Statement and found it acceptable. It addresses the changes to the plan as depicted.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: We have no comments on the amended Findings Statement.

CHAIRMAN EWASUTYN: Comments from Board



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ORCHARD HILLS

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Members. Frank Galli?

MR. GALLI: Nothing on the amended Findings Statement.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm good with that.

MR. MENNERICH: No.

MR. PROFACI: Nothing.

MR. FOGARTY: No comment.

MR. WARD: Nothing.

CHAIRMAN EWASUTYN: So Mike, the motion before us this evening is to --

MR. DONNELLY: Adopt the amended Findings Statement.

CHAIRMAN EWASUTYN: I'll move for a motion to adopt the amended Findings Statement for the two-lot subdivision for Orchard Hills.

MR. MENNERICH: So moved.

MR. BROWNE: Second.

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

(No response.)

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

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ORCHARD HILLS

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

All right. Let's get into the nuts and  
bolts of the new creation we'll call it, or the  
new wish list.

MR. WINGLOVITZ: The new wish list.

MR. DONNELLY: Ross, can I just have  
the current count? The first phase is the  
apartment flats, and we're talking about --

MR. WINGLOVITZ: 128.

MR. DONNELLY: 128. And the second  
phase is currently --

MR. WINGLOVITZ: Town homes, 132.

CHAIRMAN EWASUTYN: Cliff Browne,  
during our work session, and Jerry Canfield also  
-- I think you were supposed to get in touch with  
Jerry. Jerry, how did we leave off?

MR. CANFIELD: We had discussed -- at

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our last discussion, Ross, at the last meeting with respect to phase II, I believe your applicant had expressed the concern of having the versatility of having townhouses or apartments, and that was an issue left open. That was unsettled. If you remember correctly, the conversation at that point was specifically about the two-lot subdivision, and we reserved that conversation for a later date. It was my understanding that you were going to give me a call and we would discuss what the applicant's actual wishes are, whether they'll be town homes and/or apartments or apartments. Can you bring us up to speed as to where we are, what they will be?

MR. WINGLOVITZ: I think the desire is to still keep that option open, whether they be built as town homes or apartments. I think the issue you're talking about is a building code issue as to how you'll review them when they're submitted to you. At that point the decision should be made and it would be clear. I guess they would have to say to you we're building them under this section of the code or that section of

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ORCHARD HILLS

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the code, and that may impact I guess what the use would be.

MR. CANFIELD: The impacts are twofold. Cost of the project. If they are apartments, they'll be required by the current building code to be sprinklered. The other side of that also is the additional requirements to report to the Board of Health for the additional flows. We had discussed at the work session that sprinklering the buildings may provide you with a better scenario for the Board of Health Department water requirements because your fire demand will be much greater on sprinkler. We just need clarification as to which proposal are you actually submitting? There was lengthy discussion about leaving it open ended and the option for apartments. I think it would be better for everyone involved that it would be addressed now, what actually it will be.

MR. WINGLOVITZ: I don't know if we can address it.

MR. WEINBERG: David Weinberg for the applicant. It's my understanding that regardless of what we call it, townhouse or an apartment,

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either can be rented. There is no -- I don't believe there's any restriction for having a townhouse that can be rented. The only reason why I talk about this as being rented is that the banks and financing today require what we call an exit strategy. So if something is being built and cannot be sold and you have standing inventory, they want to know that it can be rented without interfering with a previously approved plan that didn't allow for rentals. So the position we want to take is that they will be townhouses, okay, which will be separately built, however we're reserving the right to be able to rent them. I'm just trying to clarify that with the Board so if they become rentals I don't want you to come back and say well you said they were going to be for sale units and I'm trying to pull a fast one. We're not. These very well may be rentals. It depends on the market conditions. I will designate them as townhouses.

MR. CANFIELD: If they are constructed per building code. The definition of a townhouse --

MR. WEINBERG: That's what we would do.

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ORCHARD HILLS

MR. CANFIELD: -- basement to ceiling, one dwelling unit within fire walls, that's a townhouse. If that's the way they're to be constructed.

MR. WEINBERG: That's what we're proposing.

MR. CANFIELD: As far as renting those, I'm not sure if there are any other homeowner association issues that become, you know, an issue.

MR. DONNELLY: When it was all a condo project there was going to be one condominium association, and that in the earlier site plan approvals there was a requirement that those bylaws be reviewed by the town attorney. What becomes a little bit more difficult, we've had this in projects that are condo projects that are phased where applicants are proposing to have a single association per phase and then some kind of --

MR. WEINBERG: Master.

MR. DONNELLY: -- umbrella association over that as there are a number of details that need to be worked out here. In this case you

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ORCHARD HILLS

would need to have a condominium association that I assume would have to have some agreements in and rights over the apartment land. I think those are issues that we haven't had to explore because, you know, we didn't have this separate idea. While if it was all built at once we would just look to your homeowners association, your condo association documents. This has been a source of difficulty in the Town with other projects where, as all things do, they come back to the Town Board where maintenance obligations and inconsistent provisions and individual associations that are not fulfilling their responsibilities and how to work these out. So it's an issue that we have a few other projects where we've had some meetings among myself, Mark Taylor and the developers' representatives to see if we can work it out. So there's multiple reasons why Jerry was asking the question he was. If it is going to be, by default, a townhouse/condominium development, then we will need a homeowners association set of documents, they'll need to be reviewed by the town attorney and they will have to couple themselves with the apartment

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ORCHARD HILLS

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unit ownership. So those things are going to have to be accomplished.

MR. WEINBERG: I thought that we had discussed this and that's why -- I think Cliff Browne had mentioned this a number of times, we having two different condo associations, one for I'll call them the apartments and one for the townhouses and then a master which would control everything.

MR. DONNELLY: I would assume the apartment ownership would be in a single entity.

MR. WEINBERG: But it would still have that same effect if you will. I don't want to get into the legalese of it. That would be one association. It may only be --

MR. DONNELLY: The equivalent of an association.

MR. WEINBERG: An association. The townhouses being the second association covered by a master umbrella.

MR. DONNELLY: One of the reasons why we need to work it out now is you've now subdivided the property off, and arguably once that map is filed and you satisfy the conditions



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ORCHARD HILLS

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it can be. This is our last chance to make sure those issues are worked out. So we need to find a way to accomplish that. It's not something we can --

MR. WEINBERG: Push off.

MR. DONNELLY: -- just worry about later.

MR. WEINBERG: The answer is we agree to do it. How to do it I don't know. I'll leave that to the attorneys. The answer is we agree that there will be either two associations with an umbrella or whatever makes sense that you guys can work out to say that somebody has control over the entire parcel.

MR. DONNELLY: My suggestion is when you know how you propose to do it, call Mark Taylor and ask to meet with him. What we also tried to do is meet with the assessor at the same time to figure out how that's going to impact tax assessment issues.

MR. WEINBERG: Fine.

CHAIRMAN EWASUTYN: One of the actions before us this evening I believe is also to approve the two-lot subdivision.

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ORCHARD HILLS

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MR. DONNELLY: The two-lot subdivision you approved on June 18th.

CHAIRMAN EWASUTYN: We discussed at the work session that the Planning Board has never granted conditional final approval without having Board of Health approval.

MR. WINGLOVITZ: Which is the case for the Town essentially.

CHAIRMAN EWASUTYN: We never walked down that road. I'll poll the Board Members now to see what their position is on that. Frank Galli?

MR. GALLI: I'm not personally in favor of changing.

MR. BROWNE: No.

MR. MENNERICH: I don't think it should be changed.

MR. PROFACI: No.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: So bring us back to where we are now.

MR. WINGLOVITZ: I guess where we are now is this portion does have Health Department

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approval. It's not being modified. It's only the rear that's being modified. We would like to get, I guess, conditional final approval on phase I if you will, preliminary on phase II or the townhouse section, to allow us to go off to the Health Department and amend our approval that we have.

CHAIRMAN EWASUTYN: Are we prepared to do that this evening?

MR. HINES: Yes. I'm okay with that. I just want to make sure that we have that access issue to the rear addressed. I was able to speak to Ross earlier today and there's a proposal to make a private road which I think addresses it because it will be on the filed subdivision map when it's done.

As far as a turnaround, there is a loop on the site there. It's not all the way to the other project. The road would have to be constructed. I would suggest a gate would be placed at the loop there restricting access to the turnaround. I think that will resolve the issue. So with that being a condition of any approval, that that access be -- I think it was

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conditioned on the subdivision approval originally, that that be addressed. With that being addressed, then site plan approval for phase I and preliminary on phase II, the rear townhouse unit, I think is appropriate.

CHAIRMAN EWASUTYN: Karen raised, during the work session, an issue on buffering.

MR. HINES: The rearrangement of the lot or the units on the top now have multi-family homes bordering residentially zoned properties --

MR. WINGLOVITZ: Yup.

MR. HINES: -- to the rear and to the side. I'm not exactly sure what that buffer is. Bryant and Karen usually handle that.

MR. COCKS: Forty feet.

MR. HINES: I think you're probably okay.

MR. WINGLOVITZ: We comply with the buffer. I had the conversation with Karen today. We comply with the setback. Her concern was that it's basically an open field and there would need to be additional plantings there to make the buffer effective.

MR. HINES: That's currently orchard up

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there; correct?

MR. WINGLOVITZ: Yeah. This is basically an old orchard here. Down in here it's got scruff. Orchard is probably mostly in the front.

MR. HINES: I think the building layout will work at the forty foot. There may be a need for some landscaping there, which I guess would be subject to the site plan approval, that final site plan there.

MR. WINGLOVITZ: That's here?

MR. HINES: And along the side. The other side where --

MR. WINGLOVITZ: And here?

MR. HINES: Yes.

MR. WINGLOVITZ: Yup.

CHAIRMAN EWASUTYN: Bryant, in granting conditional final approval for phase I and preliminary approval for phase II, your comments and recommendations to the Board?

MR. COCKS: I had no further comments. Just with the phasing plan that was shown, you guys outlined I think it was E through G for phase I. I just wanted to know if the Planning

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Board wants a narrative of what was going to be written in each phase?

MR. WINGLOVITZ: What we could give you, Bryant, is something similar to what we did in the Findings. I think we went through and said this and this will be done by this. we'll modify that so it corresponds with our new phases. That would be fine.

MR. COCKS: It probably doesn't have to go in the Findings. I think if it's just written on the plans with the phasing plan, I think that would probably be all right.

CHAIRMAN EWASUTYN: They will still need ARB approval for phase I.

Will they still need a lighting plan as Karen was saying?

MR. HINES: Karen did mention there's no lighting plan.

MR. WINGLOVITZ: Phase I hasn't changed. That was the original plan, the original lighting plan for the townhouses.

CHAIRMAN EWASUTYN: Jerry, your comments?

MR. CANFIELD: We have nothing

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additional.

CHAIRMAN EWASUTYN: Questions, comments  
from Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I think I'm okay.

CHAIRMAN EWASUTYN: Interesting  
statement. Ken Mennerich?

I'll come back to you after I poll  
everyone.

MR. MENNERICH: Karen had mentioned  
that you were going to investigate possible use  
of a light fixture other than the shoe box one.  
Have you had any progress on that?

MR. WINGLOVITZ: I talked to her today  
about that. What we used at Brighton Green was  
more of a colonial fixture. That's kind of what  
we envisioned here. The problem becomes in the  
front part, which is the apartment section,  
because of the pretty large parking areas, to  
effectively light that with a smaller fixture  
like that it's not very effective. We have  
twenty foot high poles in here now, the  
traditional shoe box fixture. In the townhouse

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section I don't have a problem with doing that.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing further, John.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I'm fine.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Everything is covered.

CHAIRMAN EWASUTYN: You had received  
early on a comment from Ken Wersted as far as  
making a change to that island. Has that been  
shown?

MR. WINGLOVITZ: That's right here. I  
guess as part of the development of this site  
plan we're looking to connect and Ken would like  
us to remove that island. That's not a problem.

CHAIRMAN EWASUTYN: An open and honest  
question. Earlier in the week you were looking  
to secure financing to sort of get final approval  
on the upper portion. We seemed to spend a lot  
of time with all the applicants today helping  
them rethink their projects and, without being  
funny, amending the amendings of the amendings  
that we amended. So I don't think you can answer  
it today but I'll ask you how soon before you



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come back looking to amend this based upon the fact that you can't still get any further because you can't get the financing without securing the back portion? I ask you that in all honesty. It's a learning experience for all of us. Better that we speak about it openly than we -- you know, it just makes for a lot less -- I can vary discussion with every one of my Board Members. What do you think is going to happen after you leave here tonight? You were hoping for something earlier in the week that isn't obtainable now.

MR. WEINBERG: There's two possibilities. One is going to be with the bank financing. It's a very fluid thing. It depends on who I'm talking to at which bank, okay, and that's why it changes. Their requirements change as we go up the ladder, okay. As I get passed the lower level and go up to the next level on my loan, okay, applications, they come up with something different. That's one of the reasons why things are getting a little bit crazy and we run around saying oh my gosh, I need to get this done, because they need the security for the

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second half before they'll loan me on the first half. The other alternative is, and it's something else I'm working on, to put them back together and do it as one project. So that's not out of the realm of possibility here. It depends which one actually comes to the table first that I can actually make the deal, and then I'm going to come running back to you again, okay, hoping I have Board of Health approval and say to you here's what I have now, I'm ready to do it because the next time I come back I have to be prepared to say this is what I'm doing and here's how I'm going to do it because I'm going to ask you to amend it again to finalize, if you will, whatever I can work out from a financing arrangement. So you are correct, I'll be back again asking to you correct it.

CHAIRMAN EWASUTYN: Pat Hines said earlier during the work session that the alternative may be to go back to what we originally considered as one complete plan.

MR. WEINBERG: And it may happen.

MR. FOGARTY: Does that seem to be one of the hang ups that the banks are having is that

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this is now a phased project rather than one project?

MR. WEINBERG: Well --

MR. DONNELLY: Originally you thought phasing would help.

MR. WEINBERG: It did. It depends on which lender I'm talking to. Frankly I'm talking to a number of different people to see who I can ultimately come to a closing table with. One means -- in one financing situation I'm only doing the first section. They don't want me to do the second section until I'm somewhat involved with the first portion of a rental, get all my improvements in and then start the second section. I have another situation where they want me to do -- they will permit me, not they want me, they will permit me to do the whole thing in one shot, which is what my preference is. That's what I'm working toward. But it's going to be who steps to the table and who actually gives me a written commitment that I will honor it.

MR. HINES: One of the problems is the up-front costs. You've got to build the sewage

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treatment plant, the roadway improvements, the water and sewer infrastructure and the recreation.

MR. WEINBERG: It is. That's the \$5,000,000 improvement cost up front. You need to get that financed somehow.

MR. FOGARTY: Based on what we did tonight is any bank going to give you a loan?

MR. WEINBERG: What is going to happen is I needed to have the final. I needed the preliminary. That's why I'm not -- the preliminary allows me to go back to the Board of Health. Now I can go to the next step on both scenarios, okay, and take it to the next step. Whoever then finalizes it, I will come back to you, hopefully shortly. I mean I'm hoping that next month I can come back and say to you here's definitively how I'm going, and then I can have a better discussion with Mike and everybody else as to how to actually execute the documents.

CHAIRMAN EWASUTYN: Who is going to take responsibility of calling the Planning Board to schedule the resubmission?

MR. WEINBERG: Ross. I give it to

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Ross's responsibility. He can take the brunt of that one.

CHAIRMAN EWASUTYN: I dare you.

MR. WEINBERG: We appreciate it, Mr. Chairman.

CHAIRMAN EWASUTYN: You're lucky I'm simple minded.

MR. WEINBERG: We have to try. By the way, I do want to thank the Board, okay. These are really very trying times and --

CHAIRMAN EWASUTYN: I know it so well.

MR. WEINBERG: -- this Board -- I mean I'm a developer but I'm also a resident and I have to tell you we appreciate this, okay. You guys have done tremendous. You spent a lot of time and we absolutely appreciate it and we thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Like the issue with the fire sprinkler system and all, as long as you address it bluntly, you know what I mean, with the wall or whatever, I have no problem with what we're doing.

CHAIRMAN EWASUTYN: Mike Donnelly,

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would you give us conditions for approval --

MR. DONNELLY: Sure.

CHAIRMAN EWASUTYN: -- for granting approval for Orchard Hills for the phase I conditional final approval and phase II preliminary approval?

MR. DONNELLY: Yes. I'm referring in the main to the earlier resolutions of site plan approval and carrying forth those conditions, amending them as necessary to carry forth what we're trying to do here. The first one is we need some sign-off letters from your consultants on the issues they raised in their memos from the last week before this meeting. One of the issues that we also had in the original site plan resolution that becomes more pressing now is the need to have the access utility and drainage easement reviewed, because now we have a subdivision that makes it a little bit more important. We're not doing ARB now, so we'll reserve that to a future stage. We'll need a private roadway easement and maintenance agreement. I think that was in the subdivision resolution as well. Obviously all mitigation

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measures contained within the Findings Statement will need to be performed as the project moves forward. The original resolution had, and it will continue to have, a requirement that the traffic light shown on the plans shall be installed and operable before the first certificate of occupancy is issued for any dwelling unit in any phase. We had talked about, and I still think it makes sense here, a developers agreement that will incorporate the need for various performance security and the possible need, if the Town Board thinks it's appropriate, for an on-site inspector. We say that all private roadways, sewer, water and drainage systems in the rental section are to be maintained by the rental operator identified on the drawings. That's particularly important if we don't go beyond phase I. And then we had said that all private roadway, sewer, water and drainage systems and -- I'm sorry, the single-family home section doesn't exist any longer so we don't need that one any longer.

Did you need to create a new transportation corporation for the sewer plant or

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are you operating under the old one?

MR. WINGLOVITZ: Operating under the old one.

MR. DONNELLY: We will need an HOA document review, and I think we do need to have it in some fashion even at this point in time for the first phase. So I'm carrying that requirement. I'll recite that the approval is intended to allow phasing of the project. Only phase I is approved at this time. We will say that the infrastructure in phase I must be completed before a certificate of occupancy in the second phase is issued. I think what we don't want to get involved in, unless you get that approval and we amend that condition, is that somehow somebody is building in the back when up front the necessary improvements haven't been completed. There was a requirement, and it will continue, that the Oak Street culvert must be completed to the satisfaction of the town engineer before any construction activity, including site grading, is begun. Unless the recreational facilities proposed are completed and operational within nine months after issuance



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of the first residential CO, then no further residential CO shall be issued until those facilities are complete and operable. We had talked about the need -- the possible need for an Army Corp permit or letter from the Corp reporting that those activities are covered under a general permit. I take it that hasn't changed.

MR. HINES: No.

MR. WINGLOVITZ: The permit has been issued. You always carried that.

MR. DONNELLY: Okay. DOT approval. I assume you have that in concept and --

MR. WINGLOVITZ: Yup.

MR. DONNELLY: -- there will be permits later on. The original approval required that you couldn't get the plans signed until you obtained or delivered to us written approval from the town engineer regarding a satisfactory agreement regarding maintenance of an access to the water system. Even though it wasn't part of the Town system, they needed to make sure they could get to it. We will defer architectural review until the future. There has been a change in -- I mentioned this to Ross on the phone. For

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certain categories of financial security the Town Board has changed their policies. For landscaping security and for the fee in lieu of parkland, the Town allows a deferral of the payment of the security until issuance of the first building permit. In the case of a phased development, until issuance of the first building permit in each phase. We will do that for the landscape security. We will of course need to have an estimate. The inspection fee, however, would have to be posted at this time before the signing of the plan as was the procedure in the past. When the fees are deferred you need to carry a map note to that effect, and the language of it we can provide to you. It's within the Town Board's resolution. You will also need to sign a consent and acknowledgement that you and your successors in interest will be bound by the obligation of payment.

MR. WINGLOVITZ: Michael, on the parkland fees, I'm sorry to interrupt you, the language -- are the parkland fees established by the Town or is that how it reads? It's not a specific fee; correct?

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MR. DONNELLY: What they wanted us to do, and I'm trying to remember, this one we didn't say anything to the contrary in the Findings --

MS. DALY: It was at \$1,500 or an amount set by the Town Board. That's how you --

MR. DONNELLY: We did the \$1,500 because that was the fee then?

MS. DALY: Yes. That's from the original.

MR. WINGLOVITZ: I guess we wanted to maintain that language. Or an amount set by the Town Board is what we wanted to have.

MR. DONNELLY: They told us they want us to stop doing that, I think because it invites people to come visit them. They've asked us to recite the amount that is set forth in the ordinance, which is \$2,000 per lot or dwelling unit, and total the amount and insert it in the resolution itself. I will talk to Mark Taylor about whether we should go back because I think that flowed from the Findings, and maybe that's appropriate. I'll double check that with him. If it's his position we're bound by the new

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resolution that's in effect, then I'll report that to you and I will be unable to, you know, accommodate you. I'll leave it up to him. This is a recent change. Tonight are the first sets of applications that we're putting through. All of the other financial security and inspection fees are due as they were in the past, upon delivery of the plan. We'll do them on a phase-by-phase basis. Stormwater, water main, private road security and inspection fees.

I believe that carries forth the old conditions and adds the new ones regarding phasing.

CHAIRMAN EWASUTYN: Comments from your side of the table? Anything from you?

MR. WINGLOVITZ: No.

MR. BROWNE: I have a question, John.

Mike, with the changing -- with the two lots that we're talking about phasing, one phase of one lot and the second is based on a separate lot. Does that make a distinction in the language you have to use?

MR. DONNELLY: To me what it really does is heighten the need to resolve certain of

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these issues, like easement, homeowners association, now because when it was one piece of land it was a lot more under control. I don't think it changes anything beyond that.

MR. BROWNE: Okay.

MR. DONNELLY: What we're hearing is they had not yet filed that subdivision, and it may never be filed.

MR. BROWNE: Okay. I just wanted to make sure when we were talking about phasing because it's two separate lots, it's not going to cause an issue later, phase II being on a separate lot than phase I.

MR. DONNELLY: The issue it did raise, and Pat talked about, was the potential for a 280-A problem. If there's a subdivision and the roadway is shown on the map, then 280-A's requirement is satisfied and no building permit can be issued until suitable improvements. If there isn't a subdivision, there's no 280-A problem because the roadway is -- goes right out to the public street and goes through the project. Either way it's solved. It does cause a problem but either the roadway will be shown on

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it or there won't be a subdivision.

MR. WINGLOVITZ: A condition of phase I is that the private right-of-way be indicated on the plan.

MR. DONNELLY: As a condition of the subdivision approval.

MR. WINGLOVITZ: The subdivision I think is more broad because we didn't know what the solution was going to be.

MR. DONNELLY: It's only important in the subdivision resolution because there's no problem unless there's a subdivision. The subdivision resolution requires you to satisfy Pat as to the roadway shown.

MR. HINES: Following that through, we need to show what improvements are in phase I. Where phase I is going to stop, it's going to have to go to phase II's lot line, but I think functionally a gate would be better to have than a dead end road.

MR. WINGLOVITZ: We'll go around and come to here.

MR. HINES: That certainly will serve as a temporary cul-de-sac.

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CHAIRMAN EWASUTYN: And the timetable to file the subdivision. You have how many days?

MR. WINGLOVITZ: That's the tail, this is the dog.

CHAIRMAN EWASUTYN: You haven't filed a subdivision yet.

MR. WINGLOVITZ: No.

CHAIRMAN EWASUTYN: You have how many days to file?

MR. HINES: They haven't gotten final approval. They have conditional final.

MR. WINGLOVITZ: We have 180 days from June 18th.

CHAIRMAN EWASUTYN: Having heard the conditions of approval for granting conditional final approval for phase I and granting preliminary approval for phase II presented by our Attorney, Mike Donnelly, are there any final questions before I move for a motion?

(No response.)

CHAIRMAN EWASUTYN: I'll start with Frank Galli.

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff Browne?

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MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: All right. Having heard those conditions presented by Attorney Mike Donnelly, I'll move for that motion, conditional final approval for phase I and preliminary approval for phase II.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.



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MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself aye. So  
carried.

MR. WINGLOVITZ: Thank you very much  
for your time.

MR. WEINBERG: Thank you very much.

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

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

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DATED: August 26, 2009

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

----- X  
In the Matter of

ONE SOURCE PURCHASE  
(2009-07)

5303 Route 9W  
Section 20; Block 2; Lot 56  
B Zone

----- X

COMMERCIAL SITE PLAN

Date: August 6, 2009  
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  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY  
JOHN A. WARD

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

----- X

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

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MR. BROWNE: The last agenda item we have this evening is One Source Purchase. It's a conceptual site plan being represented by Karl Tauffner.

CHAIRMAN EWASUTYN: Bryant, do you want to bring us along?

MR. COCKS: We originally scheduled it for tonight because we thought they would be on the ZBA agenda for last week. Apparently the next agenda is full also. This won't be coming back until the first meeting in October.

MR. BROWNE: That concludes our agenda items.

(Time noted: 8:06 p.m.)

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

----- X  
In the Matter of

LANDS OF TERRIZZI  
(2006-48)

Request for a Six-Month Extension of  
Preliminary Approval

----- X

BOARD BUSINESS

Date: August 6, 2009  
Time: 8:06 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

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LANDS OF TERRIZZI

MR. BROWNE: Under Board Business we have two items. The first is Terrizzi, a request for a six-month extension of preliminary approval. The current approval expires on August 16, 2009.

CHAIRMAN EWASUTYN: I'll move for a motion to grant a six-month extension for the preliminary approval for the lands of Terrizzi.

MR. PROFACI: So moved.

MR. DONNELLY: Do you want to make that a date certain? February 6, 2010.

CHAIRMAN EWASUTYN: Thank you.

MR. PROFACI: Moved again.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci and 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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LANDS OF TERRIZZI

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

Bryant, would you make it a point of  
preparing a letter and sending it to Mr. Terrizzi  
and acknowledging the fact that we granted to  
extend his preliminary approval to the 6th of  
August.

MR. COCKS: What was it?

CHAIRMAN EWASUTYN: Excuse me. The 6th  
of February.

MR. DONNELLY: 2010.

CHAIRMAN EWASUTYN: 2010.

(Time noted: 8:07 p.m.)



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

----- X

In the Matter of

LANDS OF MITCHETTI  
(2004-65)

Request for a Change in the Type of G2  
Fencing

----- X

BOARD BUSINESS

Date: August 6, 2009  
Time: 8:07 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

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LANDS OF MITCHETTI

MR. BROWNE: The last item we have under Board Business is Mitchetti, a request for a change to the type of fencing proposed for the back of the building.

CHAIRMAN EWASUTYN: As discussed at our work session, the Board is in favor of granting a change in the fence from a vinyl fence to a stockade fence for the lands of Mitchetti subject to Mr. Mitchetti also completing the dumpster enclosure and providing the Board with a proposed written letter for completion of all the other items that were -- it wasn't an approved site plan? It was.

MR. DONNELLY: Site plan waiver.

CHAIRMAN EWASUTYN: Shown on the site plan which was granted a site plan waiver. Some of those outstanding items were the landscaping, paving of the parking lot, probably striping of the parking lot, and --

MR. HINES: The fencing.

CHAIRMAN EWASUTYN: -- the stonewall. So again, I'll move for a motion to grant the request subject to Mr. Mitchetti making certain improvements immediately along with the

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LANDS OF MITCHETTI

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change of fence, that being the dumpster enclosure, and to provide the Board with a written outline of when he will complete the other outstanding issues.

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: A second by Joe Profaci. Discussion?

MR. BROWNE: In that we should also mention the type of fencing that we discussed.

CHAIRMAN EWASUTYN: That being the stockade fence.

MR. BROWNE: Pressure treated, fifteen, twenty-year life.

CHAIRMAN EWASUTYN: Thank you. Anything else?

(No response.)

CHAIRMAN EWASUTYN: Bryant, why don't you memorialize this in a letter.

MR. COCKS: Okay.

CHAIRMAN EWASUTYN: Work it through with Karen and then we'll make that part of the

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LANDS OF MITCHETTI

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record and send it on to Mr. Mitchetti.

I have a motion by Ken Mennerich, a second by Joe Profaci. We had discussion on the motion. Any further discussion?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to have Bryant Cocks prepare a letter to forward it on to Mr. Mitchetti outlining our action this evening. I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Tom Fogarty will be away on the 20th of August. Cliff Browne won't be here on the 20th of August. It's important that I know now if anyone else is planning on being away.

(No response.)

CHAIRMAN EWASUTYN: Then we have enough

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for a --

MR. HINES: I'll be away but I'll have someone here.

CHAIRMAN EWASUTYN: I'll move for a motion to close the work session of the 6th of August.

MR. BROWNE: The work session was already closed, John.

CHAIRMAN EWASUTYN: The Planning Board meeting of the 6th of August.

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 starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

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(Time noted: 8:10 p.m.)

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