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

----- X

In the Matter of

THE POLO CLUB

Route 300
Section 39; Block 1; Lot 78.1
R-3 Zone

----- X

FINDINGS STATEMENT
SITE PLAN

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

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

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of August 7, 2008. At this time we'll call the meeting to order with a roll call vote.

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MR. GALLI: Present.

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MR. BROWNE: Present.

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MR. MENNERICH: Present.

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CHAIRMAN EWASUTYN: Present.

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MR. PROFACI: Here.

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

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MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

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MS. CONERO: Michelle Conero, Stenographer.

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

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MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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MR. WERSTED: Ken Wersted, Creighton,

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THE POLO CLUB

Manning Engineering, Traffic Consultant.

MR. MUSSO: Mike Musso, HDR Wireless.

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

(Pledge of Allegiance.)

MR. PROFACI: If you would please turn off your cell phones and other devices. Thank you.

MS. HAINES: The first item of business we have tonight is the Polo Club. It's here for the Findings Statement. It's a site plan located on Route 300, it's in an R-3 Zone and it's being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz from Engineering Properties. This is a site plan that was subject to the Final E.I.S. that was adopted in early July and a draft Findings Statement was provided June 26th to the Board via electronically to the consultants, and subsequent to that we submitted a complete set of preliminary site plans for review as well.

We're here tonight to hear any comments on any of those items. I did receive comments from your consultants.

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CHAIRMAN EWASUTYN: Ross, we'll start with the Findings Statement this evening. The goal of the Board is to review that and come to a decision. We will be entertaining the site plan for consideration for preliminary approval at our meeting on September 4th. That will give us time to cover in detail any actions that we'll take tonight as it relates to the Findings Statement.

Having mentioned our consultants, I'll now turn to Pat Hines, our Drainage Consultant, for his comments as it relates to the Findings Statement.

MR. HINES: Our main comment with the Findings Statement is to clarify the traffic improvements, I know Ken will speak to those, at Route 300 and Gardnertown Road. I'll leave that for Ken to speak of.

We had some other clean-up items with some references to other projects and such and some spelling issues that were weakly mentioned.

The fact of the under sanitary sewer mitigation, we're going to require some language that requires either project, either Driscoll, which is a project across the street that has

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some utilities that also depend on the Polo Club project, and vice versa. Also we're recommending that our implementation language that is incorporated into our Findings Statement be added to that.

The major issue is the traffic improvements which Ken can address.

CHAIRMAN EWASUTYN: Okay. Ken Wersted, Traffic Consultant.

MR. WERSTED: I'll go through the Findings Statement by page the references that I have. On page 3, the third paragraph down mentions three-foot wide walkways that will connect from the sidewalks up to the residences. I don't think there are actually any on the plan. I think residents --

MR. WINGLOVITZ: They're on the detailed blowup in the landscape sheets that show the sidewalks and the front entry doors. Most of them have driveways to the front doors. We can clarify that.

MR. WERSTED: The way it reads it sounds like you have a separate walkway kind of next to the driveway going up to the front door.

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So if that could just be clarified.

The next paragraph talks about the site plan having a total of 416 parking spaces. I think the site plan right now calls for 370. So just clarify that between the two documents. That was also a reference on Bryant Cocks' --

MR. WINGLOVITZ: Comments as well.

MR. WERSTED: -- comments as well.

MR. WINGLOVITZ: We'll use the number 370. When we counted for the F.E.I.S. we included all the turnarounds. I think somebody had commented at the last meeting for the sake of the calculation just use the driveway for one space and one garage. So that's where the 370 comes from. We'll use that to be consistent.

MR. WERSTED: On page 5, the first paragraph in the Findings Statement, I had the edited version which I'll provide to the applicant and the Town electronically, the last sentence of that I just clarified that the intersection of Route 300 and Route 52 is currently experiencing failing levels of service and that will continue in the future. It has been identified by the Town as needing

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THE POLO CLUB

improvements to accommodate future traffic volumes. There's a little bit of rewording there.

The next paragraph down talks about access, and I added a sentence there that talks about the emergency access being provided via a gated driveway along the north side of the property to Jeanne Drive via an easement with Hudson Valley Movers. That's also a comment from Bryant's comment letter as well.

MR. WINGLOVITZ: Not a problem.

MR. WERSTED: And then under transportation mitigation, the first paragraph, traffic, it goes into the different improvements that are needed, particularly at the intersection of Route 300 and Gardnertown Road, and then also at Route 300 and Route 52. I expanded that. Just to clarify, when you mention adding turn lanes, I just added some text to describe what those turn lanes are more specifically.

What we talked about at the workshop meeting and also came up in Pat's comments was writing in there specifically what improvements would be implemented as part of the Polo Club. I

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THE POLO CLUB

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know on the Driscoll Findings Statement we had said that the northbound left-turn lane would be needed or would be constructed as part of that project. I know in the Findings Statement and also in the F.E.I.S. it talked about providing a fair share contribution at the Route 300/Gardnertown Road intersection as well as Route 300 and Route 52. I think the specific item that should go in the Findings Statement at the Gardnertown Road/Route 300 intersection is the southbound left-turn lane. That's how the Board wants to handle it.

MR. WINGLOVITZ: We did talk about that in here. You're saying as a requirement as opposed to a suggestion?

MR. WERSTED: A requirement versus the fair share portion of it.

And then the one that's also in question is the right-turn lane coming off of Gardnertown Road, whether that's part of Driscoll or part of the Polo Club. I guess it's open for discussion.

MR. WINGLOVITZ: I thought the way we left it in Driscoll was that we identified all

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those improvements, and I thought we left language in there that they would have to be done and that we would seek our fair share somehow but I think we ended up -- we wanted to leave the language in there with flexibility so if we got the DOT to fund or somebody else to fund we wanted to leave the flexibility but realizing we're probably the only entity at this point that would be funding it. It would have to be done for the project to proceed, it's just a matter of how.

MR. DONNELLY: Part of the issue is we need to have that here as well because we don't really know which project is going to go first.

MR. WINGLOVITZ: Yup.

CHAIRMAN EWASUTYN: The other thing we had discussed was the timing of this improvement and what that would be tied to.

MR. DONNELLY: I think the traffic improvements, and it may be a resolution issue more than a Findings one, will need to be completed before a certificate of occupancy could be issued for any residential structure in the project.

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MR. WINGLOVITZ: That's fair.

MR. WERSTED: And then there's some other minor clean-up items on the Findings. That's all we have.

MR. DONNELLY: Just quickly on the traffic, on page 5 where the language appears at the end of that paragraph under the heading traffic, it says after conditional final site plan approval the applicant will meet with the Town of Newburgh. Might not that make more sense to say after preliminary site plan approval so that hopefully that issue can be resolved before we get to final?

MR. WINGLOVITZ: You'll want that before we get to final?

MR. DONNELLY: I think that will be better for everyone.

MR. WINGLOVITZ: Yup.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: The only comment on the Findings is on page 8, to add stonewalls as visual impact mitigation along Route 300. You have a list of the mitigation measures you're

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THE POLO CLUB

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using. Just to add to that list the stonewall.

MR. DONNELLY: Stonewall to be preserved, is that --

MS. ARENT: No. They're building a stonewall to be constructed.

CHAIRMAN EWASUTYN: I think you have Bryant Cocks' comments.

MR. WINGLOVITZ: Yup.

CHAIRMAN EWASUTYN: You'll add those comments as far as the changes in the Findings Statement. I think he also mentioned something about the Quassaick Creek study.

MR. WINGLOVITZ: Include that. Yup.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: I think we've got them pretty well covered.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Nothing additional.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Having heard the comments and recommendations from our

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THE POLO CLUB

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consultants, I now turn to our Attorney, Mike Donnelly, for his recommendations.

MR. DONNELLY: We will incorporate those items that were just outlined. We will also add an implementation section to the end, I think it will be similar to that in Driscoll.

MR. WINGLOVITZ: Yup.

MR. DONNELLY: It will require entry into a developer's agreement, a satisfactory resolution of the fair share requirements, and I think we need to say something about whoever goes first has to complete the traffic improvements. With that and the other language changes I think the Findings are ready to be acted upon.

MR. HINES: It's both the traffic and utility improvements, off-site utilities.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board Members to approve the -- to adopt the Findings Statement for the Polo Club site plan.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich.

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THE POLO CLUB

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Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion to adopt and approve the Findings Statement.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

I'll move for a motion to set the site plan for the September 4th agenda for discussion and action on consideration for a preliminary approval.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Frank Galli.

Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

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THE POLO CLUB

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So
carried.

Dina, would you make a note to put that
as part of the September 4th agenda.

MS. HAINES: Yes.

MR. DONNELLY: I'll try to prepare the
resolution in advance, send it around and see if
we can get the language in order before that
meeting is held.

CHAIRMAN EWASUTYN: Thank you.

MR. WINGLOVITZ: Thank you very much.

(Time noted: 7:14 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: August 16, 2008

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

----- X
In the Matter of

OMNIPOINT COMMUNICATIONS, INC.
(2008-06)

5020 Route 9W
Section 82; Block 1; Lot 34
B Zone

----- X

SITE PLAN
SPECIAL USE PERMIT

Date: August 7, 2008
Time: 7:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DOUG WARDEN

----- X

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

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OMNIPOINT COMMUNICATIONS, INC.

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MS. HAINES: The next item of business we have tonight is Omnipoint Communications. It is a site plan located at 5020 Route 9W in a B Zone. It's here for a special use permit. It's being represented by David Weinpahl.

MR. WARDEN: Doug Warden, Attorney from Snyder & Snyder.

CHAIRMAN EWASUTYN: Doug, when you're ready.

MR. WARDEN: Good evening. As I said, my name is Doug Warden, I'm an Attorney from the law firm of Snyder & Snyder here on behalf of Omnipoint Communications. Omnipoint, as you know, is proposing to locate a wireless telephone communications stealth flagpole at 5020 Route 9W. To refresh your memories, the facility will consist of a 140-foot stealth flagpole with six antennas that will actually be hidden on the inside of the flagpole at 126 feet above ground level. The application also involves the location of three small equipment cabinets at the base of the flagpole in a fenced equipment compound.

The last meeting was March 20th. Since

1 that time we've been busy. On April 19th we had
2 a balloon test, conducted at the Board's request,
3 in order to give the community a sense for what
4 the actual height is going to be and also to help
5 us prepare a visual analysis that will show the
6 Board what the finished product will look like.
7 On July 1st we submitted our visual analysis
8 along with a number of other materials the Board
9 had requested. It's my understanding that the
10 Town Telecommunications Consultant, is still
11 reviewing that but should have imminently a final
12 report. On July 15th Mike Musso, the Town
13 Telecommunications Consultant, asked us for some
14 more materials, additional viewpoints, written
15 commitment from potential co-locators. We have
16 sent those out to Mike, and it is again my
17 understanding he should imminently have a final
18 report. That is the status of the application
19 right now.
20

21 CHAIRMAN EWASUTYN: Thank you.

22 Mike Musso, would you address the Board
23 please.

24 MR. MUSSO: Mr. Chairman, Members of
25 the Board and members of the public, thanks for

1
2 having me here again. Mike Musso with HDR.

3 I think the applicant rep tonight gave
4 a good rundown of where things are at. We're
5 still conducting our review. We are looking at
6 the July 1st submittal, and I understand that the
7 July -- the information that I requested on
8 July 15th is recently sent, so I haven't seen
9 that yet. I anticipate I'll be getting that in
10 the near future.

11 At the current time we've looked at the
12 property in general, we've looked at comments
13 from the planning consultant and also the
14 landscape architect consultant. Really the main
15 issue we're looking at has to do with location on
16 property and also the configuration of the
17 property. There has been some additional
18 information or clarification that's been sent by
19 the property owner. More importantly though,
20 we're looking at different options, not just the
21 flagpole but other types of towers or monopoles
22 that may be considered or of interest to the Town
23 to consider. We're also looking at variations in
24 height based on the alternate coverage perhaps
25 that has been provided by the applicant at this

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OMNIPOINT COMMUNICATIONS, INC.

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point.

So that's essentially a rundown of what we've done so far. I do not have my written report finalized yet but I hope to have that done shortly after reviewing the additional information, assuming it is complete.

CHAIRMAN EWASUTYN: At this point I'd like to turn to Planning Board Members for their comments as far as the proposed location of the stealth tower. Frank Galli.

MR. GALLI: My preference would be to have it in front of the building and keep it as a flagpole only because I think when you're looking at an American flag, it's usually not behind the building, it's usually in front of the building as a focal point to the actual building and stuff.

Even though it's a large flagpole, if you ride down 17K in Newburgh you have a huge flagpole. Barton Chevrolet has a huge flagpole. It's noticeable because it sits back pretty far. Stuck way back in the corner as a flagpole I don't think it looks right as a flagpole.

I did see the balloon test because I

1 travel 84 quite a bit. I did see it sitting up
2 in the air. It was very visible and it looked
3 out of place. Just the balloon -- if it was an
4 actual flagpole I think it would look real weird
5 in that location the way it was sitting from the
6 highway.
7

8 MR. WARDEN: Can I --

9 CHAIRMAN EWASUTYN: I'd like to take
10 the opportunity now to have the Board Members,
11 Doug, speak at this time.

12 MR. WARDEN: Okay.

13 CHAIRMAN EWASUTYN: Thank you. Cliff
14 Browne.

15 MR. BROWNE: The same concern. An
16 additional concern is also that the current
17 location is actually not conforming to the
18 setback requirements, and my understanding is
19 that this Board has the authority to waive that
20 or to leave it in place. My contention is
21 because of the location of the neighboring
22 property owners, I would not be inclined to grant
23 a waiver of the location. We haven't discussed
24 this as a group individually. My position is
25 that I will not vote in favor of the waiver for

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that.

So with that, I would strongly suggest that the applicant reconsider the location of that pole. Personally I do a lot of traveling. I love cell towers. I use them constantly. I am not a golfer, I don't have anything to do with the country club, so there's no -- you know, nothing on that end. I just don't like the location. The same thing that Frank mentioned. I think it would look a lot better, even though I still think it may be out of character with the size of the pole, up front where the current pole is.

Also with that, it would also be my opinion it would be better if the ground equipment was located remotely from the pole so that it in fact would like look a flagpole, not something with a bunch of electronics sitting at the base. Once you do that then it says this is not really a flagpole.

So from my perspective I'd like to see that stuff relocated. The last time it was being presented it was mentioned that oh, they can't do that, which to my mind is bogus. Engineering,

1 design it appropriately to get it right where you
2 need it. Done deal. So it can be relocated
3 anyplace just engineered differently, that's all.
4

5 So, you know, again from my
6 perspective, again it's too close to the property
7 line. I believe because whatever the height of
8 the pole is, that's how far it has to be from the
9 property line the way our code reads. I'm not in
10 favor of waiving that requirement.

11 CHAIRMAN EWASUTYN: Ken Mennerich.

12 MR. MENNERICH: I also agree with both
13 what Frank and Cliff mentioned. The visual
14 presentation, I know it can be kind of distorted
15 depending on direction and distances but I think
16 the pole you're proposing is double the height of
17 the existing flagpole. If you look at this
18 picture it looks like it's 25 percent bigger
19 maybe.

20 In any event, I would prefer to see the
21 pole in the front with the equipment cabinets
22 hidden behind the building.

23 CHAIRMAN EWASUTYN: Joe Profaci?

24 MR. PROFACI: I would concur with
25 what's already been said.

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OMNIPOINT COMMUNICATIONS, INC.

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CHAIRMAN EWASUTYN: I myself would support the comments that were made by the Planning Board Members.

Doug.

MR. WARDEN: Well I thank you all for your kindness and observations. On Exhibit 3 of our most recent submission on July 1st we did really try to take your comments to heart and broach these with the landlord. The landlord was very firm in saying that the only area that he will allow, as far as our lease is concerned, is in the back of the property. So we submitted a written statement that he had signed to that effect.

MR. BROWNE: Does that mean you're going to withdraw the application?

MR. WARDEN: I don't think so. You know, we need to provide service in the area. There aren't any other -- there aren't any other locations that we can go to. We tried the water tank, we can't go there. We tried to go on the animal shelter.

MR. BROWNE: I don't think this Board is obligated to waive that from my understanding

1 of the legal aspects. If we don't waive that
2 particular situation then you have to find a
3 different location. It's that simple. That's my
4 understanding.
5

6 Am I wrong?

7 MR. DONNELLY: The code provision says
8 it shall be setback that far. I myself haven't
9 even found the section that says you have the
10 authority to waive it. You certainly have the
11 authority as to -- I suspect you do, I'm not
12 questioning that. It is not a requirement that
13 you do so. However, what you're hearing is the
14 requirement that the municipality does make
15 efforts for the needs of the public utility to
16 find an appropriate location, which kind of begs
17 the question if this is noncompliant with code is
18 this an appropriate location. I think you need
19 to turn to Mike and see whether the analysis has
20 been done to demonstrate whether there are other
21 appropriate locations.

22 MR. WARDEN: I think we have. We've
23 submitted multiple affidavits both from
24 radiofrequency engineers and from professional
25 engineers, and also from our site acquisition

1 consultant documenting our efforts to try to find
2 somewhere else. We'd like to put it somewhere
3 else if we could but we can't, and we are bound
4 -- we can't make people lease a space. We can't
5 make our landlord put it where we'd like to put
6 it. Under the Telecommunications Act -- I'm sure
7 counsel has advised you that the
8 telecommunications facilities are considered
9 public utilities and therefore are entitled to a
10 slightly different standard than other
11 applications because with the accommodations that
12 need to be made for telecommunications, water,
13 other public -- other public utilities, energy,
14 et cetera, et cetera. And so that's why we
15 really would strongly request that you review all
16 the materials that we have submitted, and there
17 are quite a few there, documenting our efforts to
18 locate it somewhere else, anywhere else. We
19 can't find anywhere else. We can't compel our
20 landlord to let us go where you would like it to
21 go.
22

23 MR. DONNELLY: Of course what the Board
24 is telling you is the location you have shown,
25 which is at the very corner of the property line,

1 is not compliant. From a quick polling of the
2 Board Members, they wouldn't be inclined to waive
3 it. I think that Mike suggested there might be
4 other locations. You've obviously heard a
5 preference for the front. Maybe there's some
6 other locations that are not as obviously
7 noncompliant and as troublesome as this. I'm not
8 speaking for the Board but I think there should
9 be some offer to show whether or not there is
10 some other location on that site that can work.
11 Perhaps if it's not impossible we could invite
12 the landlord to come to the meeting and maybe the
13 Board could discuss with him what the desires and
14 needs of the Board are in representing the
15 community's interest here. Maybe some compromise
16 could be found.

17
18 MR. MENNERICH: Along the same lines,
19 was the land owner specifically presented with an
20 option of having the pole in the front and the
21 equipment in the back?

22 MR. WARDEN: Here's the statement that
23 the landlord signed off on. It says will not
24 consider relocating the proposed stealth flagpole
25 to any other alternative location. That seems --

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MR. MENNERICH: Is the objection based on the fact that the equipment would be in the front yard, too? The cabinets and everything that go along with the pole.

MR. WARDEN: I believe so but I would have to check with the person who had the precise conversation. I don't want to make a representation about the nature of that conversation but I do believe so. I would have to check that.

MR. MENNERICH: I would think the land owner might take a different view if he had the option of not having that equipment right out in front of the buildings, just the pole and put the equipment in the back. If he was presented with that option -- if he wasn't presented with that option could that option be presented to him?

MR. WARDEN: Well listen, we are here to work with the Board and try and be as accommodating as possible. I do know and I think his statement is pretty clear that he'll not consider relocating the proposed flagpole in any other location. I do think that's pretty clear. Like I said, I'll be glad to confirm whether or

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not somehow moving just the pole and not the equipment would -- was something that was discussed.

MR. BROWNE: I might also add that our setback requirements are also pretty clear.

MR. WARDEN: Right.

MR. DONNELLY: If it's possible it might be helpful if a representative of the landlord could come to the next meeting, and that kind of dialogue may avoid questions like this, to see if there's some other location that could be considered.

MR. WARDEN: I don't know --

MR. DONNELLY: Nobody can compel --

MR. WARDEN: I don't know that I can compel that. I can certainly explore it.

MR. MENNERICH: Was the landlord going to keep the flagpole that's there now?

MR. WARDEN: I believe so.

Dave, do you know if the existing flagpole in the front is going to be staying there or probably removed?

DAVE: It has not been indicated to me that it's coming out.

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MR. WARDEN: Is that your preference, that if it was -- if it were located in the back that the existing flagpole in the front be removed?

MR. MENNERICH: Our preference would probably be to have the new flagpole in the front to replace what's there.

MR. WARDEN: I understand that.

MR. BROWNE: I think also the setback.

MR. MENNERICH: If you look at this picture, two flags sitting like this, I just don't think that makes a lot of sense. It seems like there should be some way to come up with one flag on that site.

MR. WARDEN: In the event, hypothetically speaking, and I do mean this hypothetically, that the Board were to grant approval for the proposed facility in its currently proposed situation, it sounds like my understanding is that the Board would prefer, again hypothetically speaking, that the one in the front be removed. Is that the preference that I'm hearing expressed?

CHAIRMAN EWASUTYN: Hypothetically

1 that's I think what the Board is saying is in
2 realty they'd like to see one pole on the site,
3 one flag on the site to provide a service and the
4 coverage that you need, and that be located in
5 the front where the current pole is. I mean it's
6 not hypothetical, it's just every day language.
7 This is where we would like to see it.
8

9 MR. GALLI: I'm not in the real estate
10 business but if you drive around the Town and the
11 City of New Windsor you see cell towers at
12 schools. There's a school right up the hill from
13 where you want to put this. I'm sure if you
14 contact someone in the school district. There's
15 different locations in the area that I see poles
16 there. I don't know. Like I said, I'm not in
17 that business. You said you looked at different
18 options. There's higher locations within the
19 immediate area right there.

20 MR. WARDEN: I would urge you to take a
21 look at the affidavits and the professional
22 engineer's reports we have submitted. One thing
23 to keep in mind is that, you know, cell phone
24 signals propagate on a line-of-sight basis.

25 MR. GALLI: This one is only ten feet

1
2 up the road.

3 MR. WARDEN: You're not always going to
4 get the propagation of the signal that you might
5 expect. Bear in mind we're not just trying to
6 cover this building, we're trying to link up to
7 adjoining sites to the north and to the northwest
8 so the calls, particularly along 84 as people are
9 making calls, so calls won't be dropped. So
10 there are some -- you know, there are some
11 scientific considerations which are working --
12 which we're really trying to work with here.

13 CHAIRMAN EWASUTYN: Mike, just to
14 summarize the meeting at this point, you're
15 working with Doug and representatives from
16 Omnipoint. What additional information will we
17 be receiving from you within the next couple of
18 days or weeks? Can you explain that to the
19 Board, and we can close the meeting at this point
20 knowing that that's still what we have
21 forthcoming.

22 MR. WARDEN: Well --

23 CHAIRMAN EWASUTYN: I'm talking to Mike
24 Musso, Doug.

25 MR. WARDEN: Excuse me.

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MR. MUSSO: In the interest of continuing with this application review including these technical aspects that were just brought forth, we're waiting for some alternate photo simulations which will give a rendering of the two different heights of the flagpole monopole but also a monopole without a flag on that property. We're also waiting for information, if it exists, on other wireless providers in the area and if they're willing or unwilling or if it's unknown at this point to share a wireless site built here. If there is a monopole built on this property hypothetically, are there other providers like Verizon, AT&T or other carriers in the area that would be interested. That's interesting in our analysis because the applicant notes they want to leave as much room as possible for co-location. As your wireless consultant we are aware of other carriers and where their sites are and where their sites are not. We're waiting for that information. That's essentially it.

I mean the big point is the aesthetics. We want to make sure the location, what the pole or structure would look like, where it is on the

1 property, and also getting the coverage that the
2 applicant is requesting. I think we can do this
3 on this property. I guess as part of my
4 continuance of the review I would reach out to
5 the applicant representatives from Snyder &
6 Snyder to try to have a conversation, or, as Mr.
7 Donnelly mentioned, just have some feedback from
8 the property owner. I agree with the Board. In
9 my experience on numerous applications with a
10 flagpole with the American flag being considered,
11 and also as, if you will, the gateway into
12 Newburgh over the Route 84 bridge, the front of
13 the property just seems to make sense there for a
14 flagpole type proposal. There is a flagpole
15 there now which you can see in the photo
16 simulations. I think it would be important to do
17 everything we can from a due diligence
18 perspective to try to get that done.

19
20 CHAIRMAN EWASUTYN: Mike, would you
21 please summarize what you're hearing from the
22 Board Members tonight so Doug will have an
23 understanding what direction we may be heading
24 in?

25 MR. DONNELLY: I think what you want to

1
2 hear is whether or not another location on the
3 site that would have a more logical flagpole,
4 preferably in the front yard with the equipment
5 enclosures in the back, could be proposed.

6 Beyond that I think you'll need to see all of the
7 visual presentations and of course the necessity
8 and proof that Mike usually puts in his report.

9 I'm not saying we haven't gotten it but Mike

10 usually reviews that and provides that all to the
11 Board. Preferably if we could have a property
12 owner's representative here at the next meeting.

13 In the event that the preferred location couldn't
14 be chosen, maybe there could be some dialogue as
15 to some location on the site that might satisfy
16 the Board's desire to have a complying and
17 logically consistent flagpole location without
18 troubling the legitimate needs of the property
19 owner who is willing to lease, he's not willing
20 to compromise the value of his property. I think
21 that discussion would be helpful if possible.

22 CHAIRMAN EWASUTYN: Doug, would you
23 like to add anything at this point?

24 MR. WARDEN: I don't think so.

25 CHAIRMAN EWASUTYN: Thank you.

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

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

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

DATED: August 16, 2008

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

----- X
In the Matter of

LANDS OF FILIBERTI 8, L.L.C.
(2008-19)

Route 9W and North Hill Lane
Section 23; Block 2; Lot 60
R-3 & B Zones

----- X

CONCEPTUAL SKETCH PLAN
TWO-LOT SUBDIVISION

Date: August 7, 2008
Time: 7:37 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

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

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MS. HAINES: The next item of business we have tonight is the lands of Filiberti. It's a conceptual sketch plan and a two-lot subdivision, it's located at Route 9W and North Hill Lane, it is in both the R-3 and the B Zones and it's being represented by Jim Raab.

MR. RAAB: This is a 7.85 acre parcel located on, as Dina said, on 9W and North Hill Lane. It's what's left of the Filiberti property which most of it was taken up by the Orchard Ridge subdivision. It's located along the back side.

What we're planning on doing here is the applicant would like to subdivide off the commercial part of the property from the residential part of the property so that it can be marketed as one single commercial parcel right there. In lieu of the market right now they'd like to leave the dwellings as long as they possibly can, so therefore we're going to need multiple variances, either under 185-19 or area variances. I believe that's the direction we've got to take. We've known that since we started this. So we are aware that -- it's all under

1 investigation as to what the water and the sewer
2 situation is. We are ninety percent sure that
3 the front parcel is entirely on Town water, all
4 three buildings, all six units. The two back
5 buildings are on well water but the septic are
6 -- we're getting there little by little. By the
7 time we get back here hopefully from the ZBA, if
8 we come back from the ZBA, we will have all that
9 information in hand.
10

11 We've gotten Mr. Canfield's, Mr. Hines'
12 and Mr. Cocks' comments. We've applied most of
13 them already to the plan. I thought they were
14 all really very good comments and will set us up
15 well for our presentation to the Zoning Board of
16 Appeals.

17 That's pretty much it.

18 CHAIRMAN EWASUTYN: Pat Hines.

19 MR. HINES: Our first comment just
20 asked that each of the individual structures be
21 labeled as to their use and the number of
22 bedrooms in the residential ones, and that goes
23 back to the water and sewer issue for each of
24 those structures.

25 There's an existing barn or utility

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LANDS OF FILIBERTI 8, L.L.C.

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structure spanning the proposed lot line. Those are to be removed prior to final approval.

The driveway access is labeled as a private roadway. I don't know that it is a private roadway or just functions as that.

MR. RAAB: I believe it was created as part of the 911 program. It's going to need a maintenance agreement.

MR. HINES: A maintenance agreement. Anything else for Mike Donnelly's approval needs to be submitted.

The access drive certainly isn't DOT compliant for the State highway. You'll need a letter of either them accepting that or any required modifications for that.

As you had mentioned, water and sewer service in each of the structures needs to be identified.

The Code requires parking, two spots for each residential use. That will need to be shown for each of those uses on the plans.

We just mentioned several zoning variances were needed.

You need to show us what's on public

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LANDS OF FILIBERTI 8, L.L.C.

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water and sewer because the lot sizes change in the bulk table based on that.

MR. RAAB: Sure.

MR. HINES: Also, Jerry Canfield had a comment regarding a 400 by 400 easement.

MR. RAAB: Right here. That was a reserve area for municipal wells. They were -- there was a set of wells all down in here where the detention basin is now for this original subdivision on DeVito, North Hill. They've been on Town water since the late '80s. Those wells were abandoned and were buried under the detention basin. That's what that 400 by 400 area was, for central well locations for the water to supply those houses on North Hill and DeVito. They are on Town water now. If we need any further clarification of that --

MR. HINES: I think Mike is going to have to have that easement and whatever restrictions are with that or how that gets eliminated. Eventually a driveway will have to go across there I believe --

MR. RAAB: Absolutely.

MR. HINES: -- to the existing Town

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LANDS OF FILIBERTI 8, L.L.C.

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road.

MR. DONNELLY: Whatever level of formality created it, we'd like to see the trail from there that runs to the point that says it's no longer needed, it should be abandoned or some release of the restriction recorded. Let's pursue that and find out if it's needed.

MR. RAAB: I believe it was covered in Orchard Ridge because Orchard Ridge couldn't put the detention basin in there. We'll follow that paper trail.

MR. HINES: The Board was struggling at work session on whether to proceed with this without the utility information being shown because we don't know if each of these individual lots can support it. I don't know if they're going to --

MR. RAAB: Like I said, we're sure that the front houses are on Town water. We know that because of the meter readings. That we just found out. We know that the front houses are on Town water. We're not absolutely sure that the back houses are on well water but we're pretty sure. There's nothing to indicate that they're

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LANDS OF FILIBERTI 8, L.L.C.

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connected to any Town water line either in North Hill or in 9W. Based on the meter readings, all six houses can't be on Town water. Based on the meter readings we're getting we know that these three buildings are.

MR. HINES: The five houses; correct?

MR. RAAB: Five houses. Right.

CHAIRMAN EWASUTYN: I think in discussing it during the work session, also hearing from Attorney Mike Donnelly, before we refer it on to the Zoning Board of Appeals to assist them in their decision making, that we should have a plan that shows the parking, we should have a plan that shows the septic location, we should have a plan that does show the utilities, and we should also have from you an outline of what variances are needed so that we can properly then refer it on to the ZBA.

MR. RAAB: That's fine. That's fine.

MR. GALLI: That's what we discussed.

MR. BROWNE: Your discussion helped clarify the intent because one of the things is what are you trying to accomplish. Thank you for that, but yes.

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MR. MENNERICH: I agree.

MR. DONNELLY: Jim, could you also provide us with a specification and listing of the variances that you contend are necessary so we don't get involved in a situation where we try to characterize them, we mislist them, you go, we find out later it wasn't sent. You tell us which ones are needed, give it to us in a list and we'll incorporate that into a referral when the time comes.

MR. RAAB: Based on what list we give you you're going to double check it?

MR. DONNELLY: Bryant typically does.

MR. RAAB: I have no problem with that at all. Like I said, we have most of this stuff done already. We'll try to get it submitted to you as quickly as possible.

Thank you very much.

(Time noted: 7:44 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: August 15, 2008

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

----- X
In the Matter of

GASLAND PETROLEUM
(2008-01)

Route 17K and Homewood Avenue
Section 95; Block 5; Lot 9.2
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: August 7, 2008
Time: 7:45 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHRISTOPHER LAPINE

----- X

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

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GASLAND PETROLEUM

MS. HAINES: The next item we have tonight is Gasland Petroleum. It's a conceptual site plan located on Route 17K and Homewood Avenue. It is in an IB Zone and being represented by Christopher Lapine.

MR. LAPINE: Good evening, Mr. Chairman, Members of the Board. My name is Christopher Lapine from Chazen Companies. We've been asked to take over this project from Taconic Design so we've -- we haven't made any modifications to the drawings we received from them, we're going ahead with the submittal this evening from what they previously submitted along with the comment letters to the Town Board. What we're hoping to establish -- what I'm hoping to do is -- I've read some comments but I'm hoping to get some verbal feedback from the Members of the Board as it relates to the concept design that's been presented to the Board.

Just to give kind of a brief description of what's out there, which I'm sure you're aware, it's an existing Shell station that has six fueling pumps with twelve aisles for pumping. We've since modified the plan to

1
2 develop two concepts, an alternative design and
3 the preferred concept. The alternative design
4 follows the design guidelines of the Town of
5 Newburgh by locating the convenience store closer
6 to New York State Route 17K and with the parking
7 and the canopy located in the rear of the
8 facility. We also have some parking away from
9 the facility and parking adjacent to the canopy.

10 The other concept plan prepared by the
11 applicant involves locating the proposed
12 convenience store and drive-through on the
13 northern end of the site and the canopies with
14 the pump islands on the eastern end of the
15 property.

16 We believe that the proposed concept
17 plan or the proposed alternative plan functions
18 better for this particular site as opposed to the
19 alternative plan that we presented this evening
20 as part of this application. Mainly it's a
21 circulation issue. This concept here provides
22 the ability for patrons who want to utilize the
23 pump, easy access in and easy access out, whereas
24 this particular layout, the alternative layout,
25 involves patrons coming into the canopy and then

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circulating around where the pedestrians and the patrons to the convenience store would be walking through. So there would be circulation going through that path.

In addition, in this layout we have the building that protrudes out into the egress lane with the drive-through located adjacent to Route 17K. Obviously this alone protruding into the egress lane poses a problem for customers who are exiting the site but also those using the drive-through facility because this is a potential for an accident as soon as they stick their nose out of that end of the building, whereas our project here allows the drive-through to be located in the rear of the facility with cueing and does not involve the patrons sticking their nose out into oncoming traffic. There would be a stop sign here and adequate circulation around the canopy as shown.

So we're hoping to receive some feedback from the Board this evening as to which layout they would prefer that we go along with and so that we can perhaps proceed on to the next stage.

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CHAIRMAN EWASUTYN: Okay. Thank you. Frank Galli, the alternate layout or the proposed layout?

MR. GALLI: I don't like the drive-through in front of the building. That would probably be the main sticking point. I would like the one where it's on the side in the back part there. Not the alternative one, the other one that they showed.

CHAIRMAN EWASUTYN: You like the one that would be to the left of the easel?

MR. GALLI: The left.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: The one closest to me, that layout is -- I think it's very similar to Pilot's layout and that seems to work with the exception of the drive-through window thing. That's the only issue I see with that part. To my mind if we're going to adopt the one to my left, then I would think we'd need to establish some strong reason why we're not going to follow our guidelines. Just to arbitrarily say okay, that's one thing. We prefer that one, that's one thing. We spent a lot of time and effort to get

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these guidelines in place. I don't think it's appropriate we just put that aside because that one looks nicer. I think we need to have reasons for doing that, not just because.

CHAIRMAN EWASUTYN: Do the guideline standards allow for drive islands to be in the front of a building?

MS. ARENT: No.

CHAIRMAN EWASUTYN: So the alternate plan, part of it does comply with the new guideline standards, and that would be the pump islands being in the rear, the parking being in the rear, to maintain the community character which is kind of the thread that makes the guideline standards and documents where it is from. Drive-throughs are not allowed in the front yard. So it's partially designed in keeping with the design guideline standards but --

MR. BROWNE: Let me ask a question. What kind of a -- well, what's the rationale that the drive-through cannot be on the back side?

MR. LAPINE: There wouldn't be adequate cueing. Cars would extend out into the aisle

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where the cars are exiting from the gas pumps.

MR. BROWNE: Ken, is that reasonable from your point of view?

MR. WERSTED: I'm sorry?

MR. BROWNE: For the cueing on this plan.

MR. DONNELLY: If you move the drive into the back on the alternate would it function from a cueing point of view?

MR. WERSTED: The problem you have there is most drive-throughs have some type of menu board where you place your order then you come up to the window to, you know, exchange the money for the product. With the alternative plan and the window being on the highway side, where would you put the menu board? It would have to be out in the parking lot somewhere.

MR. BROWNE: If we put the window on the back side, on the back end.

MR. WERSTED: The highway side. Then you have --

MR. LAPINE: I think what you're referring to, Mr. Browne, is putting the window on this side, on the western side.

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MR. BROWNE: Either that or the other side. Is there a particular reason on the facility that it can't go except where it's being presented?

MR. LAPINE: Mostly it's due to the cueing length. They can have up to six cars from the menu board to the drive-through window. This particular layout would have those cars extending into the travel aisle that customers who were pumping gas and customers pulling out of these parking spaces would use and we would have some internal congestion.

MR. BROWNE: If it was moved around the corner of that? Right in that area.

MR. LAPINE: I still think with the depth of this building -- you've got about four feet, so that would allow for about four cars to stack. I'm still concerned we would have some cars extending out into the access aisle.

MR. WERSTED: The other issue is that if you do move it around the corner it goes back to the guidelines that have the window on the front of the building along 17K.

MR. BROWNE: From that aspect

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essentially what we're saying is that it really can't work?

MR. WERSTED: Yeah. I mean if you follow the guidelines it can't go on the 17K side, therefore it would have to go on the 84 side, which is the upper left-hand corner of the building there. If you follow the guidelines and it goes over there, then you have the cueing backing up in towards the parking lot.

The other aspect I was going to say is you could have one car, you know, near the window, you could have a car that's in the front drive aisle of the building attempting to get into that drive-through aisle and then you have somebody else driving all the way around the north side.

MR. BROWNE: So what we're basically saying, bottom line, is if we accept the plan against our guidelines we're making a project that will not function.

MR. HINES: The driving force here is that drive-through window. Without the drive-through window you can meet your guidelines.

MR. BROWNE: They want their drive-

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through window for their --

MR. LAPINE: Operation. In order to be competitive with the --

MR. BROWNE: Okay. Thank you.

CHAIRMAN EWASUTYN: To be competitive with --

MR. LAPINE: With the competition who -- you know, most gasoline stations nowadays are adding additional tenants to that, whether it be a Subway, a Dunkin Donuts, that have the drive-through lanes as well, and they want to attract customers. Customers are coming to perhaps buy gas, purchase a cup of coffee or sandwich along the way. The nature of the businesses are no longer just gas driven, it's other conveniences associated with it.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think what John brought up is the fact that the site really can't meet all the intent of the guidelines.

MR. LAPINE: It's difficult.

MR. MENNERICH: I think one of the intents of the guidelines was to get the gas pumps behind the buildings, shield it from the

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traffic. We haven't seen one of those developed yet in the Town or in other places. You don't really see them I guess because --

MR. LAPINE: I've seen only one in the Village of Rhinebeck.

MR. MENNERICH: Rhinebeck?

MR. LAPINE: Yeah.

MR. GALLI: The Mobil station?

MR. LAPINE: The Mobil station. Sometimes you drive by there and you don't even realize it's a gas station because you don't see your typical canopy and gas pumps. That's one of the criticisms I've heard of that.

MR. GALLI: I've been in that Mobil a few times.

CHAIRMAN EWASUTYN: Do you like it?

MR. GALLI: It actually works quite well.

MR. LAPINE: It's a larger site, obviously, compared to this. This is the development of an old site where that was a raw site.

MR. MENNERICH: If you were starting with a clean site, a new site, I could see having

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GASLAND PETROLEUM

57

more options. Given the situation there would be a compromise, I guess I prefer the one on the left.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I agree with that. Given that you are dealing with an existing setup, it would be great to have the one on the right and have pumps in the back, but if we have to have the window, I would say the one on the left is the one we're kind of forced into.

CHAIRMAN EWASUTYN: Having heard from the Board Members, I'm in agreement that the alternate site plan at this time doesn't work functionally, and I would agree with them in approving conceptually the site plan which was originally presented to us.

I think we ought to give that a letter or a name or something to identify it for the record. For the record we'll call it site plan 1 and we'll call the alternate 2. I think the Board is in favor of site plan 1.

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Now I'd like to turn, now that we've crossed over that, Ken

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Mennerich -- excuse me. Ken Wersted, you had some additional comments on the site plan.

MR. WERSTED: I have a number of comments. I haven't transferred them to the applicant but I will do so.

Comparing the old site plan to the new one, the building corners have been rounded off and the radiuses increased to be able to accommodate box trucks circulating around the site and behind the building as well as a small tractor trailer that will also be able to circulate around to the back of the building if necessary for any type of delivery.

The key to the traffic I think for this project, there's two different ways to look at it and we discussed it in the work session. The first is in terms of the number of fueling positions it's not changing. There's twelve fueling positions now and it's going to remain that in the future. So when we look at traffic and the ITE trip generation as to this, based on fuel positions it would suggest that there wouldn't be any change in the amount of traffic generated by the site.

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The flip side of that is looking at the convenience store, it's going from about 1,250 feet up to almost 4,000. So it's roughly tripling in size. If you look at the trip generation associated with convenience stores with gas pumps and you look at the square footage size, it would suggest that the traffic would in turn also triple based on the size of the square footage of the building.

What we're recommending is to look at the traffic that's out there now that's being generated by this existing use and then come back after the project has been complete and look at how much traffic it's generating to be able to provide a kind of basis of what's happening when you go from a smaller gas station with a smaller convenience store to a larger convenience store even though the gas pumps are essentially staying the same. What I believe is going to happen is it's going to remain fairly much the same. The idea being that when you come in and get gas, the larger convenience store would give you more items to choose from, you know, when you're shopping in there. When you pay for your gas you

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might get coffee but you might also pick up something else, candy or whatever. So that's what I would recommend.

The flip side of that is to look at traffic in two cases, one of them would be based on the fueling positions which would suggest that traffic isn't going to increase so the impacts that are out there today are going to be out there in the future. The worst case would be what happens if you go with the square footage and traffic generated by the site does triple, how does that impact the adjacent intersections, and that would provide us with basically a comparison in one case over the other. However, I think there's a trend in marketing. I'm by no means in the marketing business but just from the traffic side of things where older stations with smaller convenience stores are being renovated to include larger convenience stores to offer more products to the customers. So I think that's kind of a trend, you know, where you will see other convenience stores doing that.

The traffic before and after from this project would help, you know, give the Town the

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means to be able to look at, you know, this project as well as other projects in the future and have some basis to look at traffic when new projects come in.

MR. NESHEIWAT: I'm Mitch Nesheiwat, I'm the owner. The amount of pumps on the proposal now are less than the pumps that we've got now. We've got eight at the gas station. We're reducing it by 25 percent. If you look at the site, we have eight MPDs. We cut the canopy almost by half. If you look at the canopy, the existing canopy, from an appearance point of view towards the highway the canopy is so huge, almost 7,000 square feet. If you look at this canopy, we're proposing half of the size of the canopy, and also we're proposing four positions less than what is existing right now. We do have eight MPDs and over here we're proposing six MPDs.

MR. WERSTED: Where are the eighteen fueling positions on the --

MR. NESHEIWAT: Between the two pumps. The existing one, you have diesel fuel and MPD. The island has three MPDs on each island. If you look at the --

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GASLAND PETROLEUM

MR. WERSTED: Currently --

MR. NESHEIWAT: Do you see that?

MR. WERSTED: So you have three pumps
here?

MR. NESHEIWAT: We have three pumps
here.

MR. WERSTED: So you have six fueling
positions, one on either side?

MR. NESHEIWAT: Yeah.

MR. WERSTED: So that's six fueling
positions here, and then you have three pumps
there with fueling positions on either side.

MR. NESHEIWAT: I take that back. You
have two MPDs instead of three. We reduced the
island by one MPD.

CHAIRMAN EWASUTYN: By one?

MR. NESHEIWAT: By one.

CHAIRMAN EWASUTYN: We have a
recommendation from our Traffic Consultant to
provide us with this information, and that's
what's on the table.

MR. NESHEIWAT: Just for the record,
we're reducing it.

MR. LAPINE: So if I understood you

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correctly, what we would provide is pretty much an existing traffic analysis for what's currently entering and exiting the site and then we would reach some sort of an agreement as to a timeframe following the construction of this when we would conduct a post-traffic analysis, whether it's conducted by Creighton, Manning or it's conducted by a traffic consultant. Obviously that could be a condition of final approval. That's something you could be looking for so that you can understand the impacts for future projects within the Town.

MR. DONNELLY: Correct.

MR. LAPINE: That's feasible. I don't see an issue with that.

The only thing I would like to add to that is obviously you've read the DOT letter. Their recommendation is to keep the curb cuts in their locations and the rights in and rights out from this facility.

MR. WERSTED: Yup. The March 11, 2008 DOT letter notes that they reviewed the plans and find them acceptable. The only changes that they were looking for was to upgrade the curbing of

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the DOT entrance more to the current standard,
and then later if and when the project is
approved by the Planning Board, then you would go
back to the DOT to get your highway work permit.

MR. LAPINE: Good.

CHAIRMAN EWASUTYN: Pat Hines, Drainage
Consultant.

MR. HINES: We looked at the revised
plans. There's no grading. Grading was on the
plans previously. It looks like it's been
removed. We'll need revised grading plans based
on the preferred alternative that was proposed
tonight. With that there's going to be some
grading into the bedrock in that one corner of
the site, what that's going to look like and how
that will be reclaimed. Karen will take a look
at that.

A lot of the existing drainage is
labeled on the site as being not functional.
We'd like for you to provide some additional
detail on the drainage on the site.

Water and sewer utilities, although
it's existing it looks like there's proposed new
laterals to be placed into service, and

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appropriate Town notes will be needed for those.

My last comment just has to do with the alternate plan which is no longer on the table. Just looking for some additional details. I don't know if you got our comments.

MR. LAPINE: We received the comments today.

MR. HINES: Okay.

CHAIRMAN EWASUTYN: You did receive comments from Jerry Canfield who is not here this evening, but I think what we would go on record to have you comment on is the proposed height of this building.

MR. NESHEIWAT: It's normal height. I mean -- I think we do between twelve to fourteen-foot ceilings.

CHAIRMAN EWASUTYN: The question raised by Jerry was if the building is under thirty feet --

MR. NESHEIWAT: It would be.

CHAIRMAN EWASUTYN: -- then the drive island would be okay. The drive island right now is at twenty feet so the building is under thirty feet and that would be acceptable. If the

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building is above that then it wouldn't be acceptable.

MR. NESHEIWAT: We'll make it up to thirty feet.

CHAIRMAN EWASUTYN: Fine.

MR. NESHEIWAT: Not a problem.

CHAIRMAN EWASUTYN: Karen, do you have any comments?

MS. ARENT: Yes. The architecture. The canopy is an important element of the site design since it is the most visible portion of the site, so you have to make sure that it's aesthetically pleasing and that it's in conformance with the design guidelines.

The elements on the roof of the canopy must be screened, anything you have up there. If something is going to be protruding or visible you must show that on the elevation drawing. You must also demonstrate that roof-mounted elements will in fact be screened.

Signage is also another important consideration in the site plan. The signage must be in accordance with the design guidelines. The sign that was recently installed was not in

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conformance with the guidelines. Internally illuminated signs are not allowed and not in conformance, and the Planning Board has vigorously upheld the standard.

Screening of the parking must be demonstrated, heights of the existing plant materials. If you're planning on using that you must show that's going to be higher than the proposed -- than the parking. On other projects that the Planning Board has allowed parking in the front of the buildings, stonewalls were installed in order to provide the screening. We might be asking for something like that if we feel the shrubs aren't going to be tall enough. I know there's pretty decent landscaping. You really have to document what's there and the heights of what's there.

MR. LAPINE: Okay.

MS. ARENT: We have to really study whether the parking is going to be well screened or not.

MR. LAPINE: There's a lot of Spireas and Burning Bushes.

MS. ARENT: It's important for it to be

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evergreen too. We're going to have to look at the screening of the cars from Route 17K as well as the adjacent road.

MR. LAPINE: We planned on incorporating some low-level stonewalls in front of the project.

MS. ARENT: That would be great. The view of the slope stabilization is also another important aesthetic issue as well as environmental component.

The architecture of the building is another important ingredient. The design guidelines do ask for peaked roofs, so make sure when you're figuring out the architecture that the architect reviews all the guidelines. That's it.

MR. LAPINE: Mr. Chairman, would it be acceptable to maybe have a workshop session with some of your consultants just to make sure all the comments have been adequately addressed prior to the next submittal?

CHAIRMAN EWASUTYN: I'll raise that question to the Board Members, if they want to set this up for the next available date for a

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consultants' work session.

MR. GALLI: That would be fine.

MR. BROWNE: If it would be helpful,
yes.

MR. MENNERICH: I agree.

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Okay. I'll move
for a motion to set this up for the next
available date for a consultants' work session.
Bryant Cocks isn't here this evening but I think
he'll be back in his office on Monday.

Dina, would you make it a point of
contacting Bryant on Monday --

MS. HAINES: Yes.

CHAIRMAN EWASUTYN: -- to let him know
he has to contact the applicant.

I'll move for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

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GASLAND PETROLEUM

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. DONNELLY: I had one issue. I note that a variance, a front yard variance was required for the alternate plan. My notes suggest that the primary plan also required a variance. Am I correct in that regard?

MR. LAPINE: Correct. The alternate plan would have required a thirty-seven foot variance whereas the preferred plan, or site plan 1, only requires a sixteen-foot variance.

MR. DONNELLY: That would need at some point, and this might be the logical point, to refer that for that variance.

CHAIRMAN EWASUTYN: So at this point we have to refer to the ZBA for a front yard variance. What is required is sixty feet, what is being proposed is forty-four feet.

MR. LAPINE: Correct.

CHAIRMAN EWASUTYN: I'll move for that motion to refer this to the Zoning Board of

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Appeals.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a second by Ken Mennerich -- excuse me, Cliff Browne. Thank you. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

I'll move for a motion to grant conceptual site plan approval for site plan 1.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

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GASLAND PETROLEUM

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Thank you.

MR. HINES: They may need an additional variance for that thirty-five foot landscape buffer along 17K.

CHAIRMAN EWASUTYN: Do they?

MR. HINES: They may.

CHAIRMAN EWASUTYN: They do.

MR. HINES: There is a requirement along 17K of a thirty-five foot landscape buffer in the front yard, which would be about the middle of their building there.

MR. LAPINE: Right now it would be within the parking lot area there.

CHAIRMAN EWASUTYN: Then I'll amend the ZBA variance to correct and add that the applicant will also need a variance for the

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thirty-five foot front yard setback which is a requirement along the 17K corridor --

MR. PROFACI: I'll re-move that.

CHAIRMAN EWASUTYN: -- and adding the thirty-five foot front yard setback buffer along with what was originally on the table, and that was it's required to have a front yard setback of sixty feet and the applicant is proposing forty feet. We're amending that resolution by Joe Profaci. And I still have a second by Ken Mennerich?

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you.

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GASLAND PETROLEUM

MR. LAPINE: Prior to coming back before the Board we should obtain our variances before moving this forward with the Planning Board. Is that correct?

CHAIRMAN EWASUTYN: Yes.

MR. MENNERICH: One quick question. When you have your work session and you look at the architectural, if it's the same plans that we have in front of us now, it's got a very nice roof line on the building. I don't think I ever said this for a gas station. The colors are almost like too muted from the rendition. Just something to consider when you look at it at work session.

MR. DONNELLY: We know somebody with a can of yellow paint.

MR. LAPINE: We'll bring some samples.

(Time noted: 8:15 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: August 16, 2008

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

----- X
In the Matter of

NEWBURGH RETAIL DEVELOPERS
(2005-33)

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

----- X

SITE PLAN & SIGNAGE

Date: August 7, 2008
Time: 8:16 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: KEVIN DOWN

----- X

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

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NEWBURGH RETAIL DEVELOPERS

MS. HAINES: The next item of business we have tonight is Newburgh Retail Developers. It is a site plan located on Route 300 and 17K in a B Zone. It is also here for signage. It's being represented by Kevin Down.

CHAIRMAN EWASUTYN: Kevin.

MR. DOWN: Good evening.

CHAIRMAN EWASUTYN: Thank you for shortening your vacation.

MR. DOWN: You're quite welcome. This application is for the relocation of a second pylon sign. Our original application was submitted on March 6, 2008. The application included ten copies of the pylon sign location plan.

At the April 3rd meeting of the Planning Board the applicant was directed to apply for a variance from the ZBA. The applicant has applied for and received a variance for the relocation of the second pylon.

We are now back in front of the Planning Board for approval of the new location for the second pylon.

CHAIRMAN EWASUTYN: Okay. Karen, you

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had one comment in reference to the location.
There may be a tree that needed to be relocated.

MS. ARENT: There's several trees in that area that would potentially block the view of the sign from various viewpoints. I was wondering what could be done.

MR. DOWN: The plantings have been installed. Kevin Cumberland, who is also attending tonight, has created a revised plan or relocation plan if you will for the trees. My thought is that he meets with Karen and she can approve the plan. We're replacing one for one. We're not had adding, not deleting, just adding towards the Chili's parking lot.

CHAIRMAN EWASUTYN: Are the Board Members in favor of that?

MR. GALLI: Personally speaking, I have a problem with anything he brings forward to us, only because the original things that he was supposed to do -- I still haven't seen anything for the stonewall. I'm still waiting for a traffic light, I'm still waiting for a stonewall that we were promised. It seems like we get a lot of requests and we give a lot of approvals

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but we don't get a lot in return. That's my own personal opinion but -- I mean you can move on to the next gentleman. I just --

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I got sidetracked.

CHAIRMAN EWASUTYN: We were discussing the signs. Karen's review of the project --

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: -- which dates back at least six or eight weeks ago, had brought up a point that the new location of the sign, the free-standing pylon sign which they got a variance for may be encumbered by existing trees that were planted. Kevin raised the consideration of having Karen meet out in the field with a representative of the company to see about relocating the trees one for one to make the sign --

MR. BROWNE: I have the same concern Frank is saying. It's an issue I would say. On the particular question at hand; yes, it would be appropriate.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think it makes sense

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to meet with them out in the field to review that. I also agree with the concerns that have been expressed by Frank and Cliff, but on the other hand I sort of take the attitude that you're the ones that are going to want the COs when those buildings are done, and if the light is not in there operating you're not going to get them.

MR. DOWN: We have to meet the requirements of the approved plan, which is the traffic signal among other items. The installed traffic signal and the wall. Absolutely understood.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: With those items understood, then I'm in agreement to having Karen meet with them in the field.

CHAIRMAN EWASUTYN: Okay. I'm in agreement to having Karen meet with them in the field.

Kevin, I had harsh words with you on the telephone the other day. I conveyed, which I'm very verbal about what I do, it's not like this happened between you and I, I spoke to

1 everyone this evening. It's not my nature to go
2 to that point but quite frankly your
3 correspondence led to a trail of a traffic light
4 March 15th. Dina and I speak four or five, six
5 times a day. Dina is conveying to me what was
6 being said, we'll have something in by the 15th,
7 we'll have something in as it relates to the
8 traffic light. We just have a history. Again,
9 we ask you what's going on with all this. We're
10 losing faith with you. This whole planning
11 process I think is based upon balance and it's
12 based upon trust and I would be the last one to
13 look to undermine anyone or embarrass anyone in
14 public, but, you know, I'm a person who trusts
15 everyone. That's my nature. I don't feel
16 disappointed or being disappointed. At this
17 point I don't want to lose my trust in you but we
18 really don't know what's going on there.

19
20 MR. DOWN: If the Planning Board would
21 like to hear from Kevin Cumberly who is the
22 construction manager.

23 MR. CUMBERLY: I'm Kevin Cumberly.
24 Unfortunately I was the one that gave Kevin Down
25 the dates on when the wall would start and the

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signal would start. We expected to be much further along with that, and the building as well. We were delayed for a whole host of reasons. That's my fault, it's not Kevin's fault. I apologize for the delays. The delays are hurting us tremendously on the project. But, you know, the wall they're supposed -- they started the digging for the wall yesterday. They're supposed to pour the footings Friday or Monday. You know, it shouldn't take more than a couple weeks to get the wall finished.

The signal equipment is all in hand and we have to put up some signs which are supposed to go up hopefully Monday, and then Tuesday they can start the signal work. The contractor has all the equipment in hand so he's telling us it will go in very quickly. You know, we fully intend to -- you know, we appreciate the Board working with us on the conditions to get Chili's open and a couple other people open before we were a hundred percent. You know, we're not going to ask for any other COs until we've met the conditions that we agreed to meet.

CHAIRMAN EWASUTYN: Okay. Frank Galli?

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NEWBURGH RETAIL DEVELOPERS

MR. GALLI: No additional comment.

MR. BROWNE: Thank you.

MR. PROFACI: Thank you.

CHAIRMAN EWASUTYN: Karen?

MS. ARENT: Kevin, you mentioned pouring the footings. What type of wall are you building?

MR. CUMBERLY: It's a concrete -- the newest concrete footing with a block wall, a twelve-inch block wall up to the finished grade and then an eight-inch block wall with a stone on top of it. It's reenforced and grouted solid.

MS. ARENT: Is it real stone?

MR. CUMBERLY: No. It's --

MS. ARENT: We approved a real stonewall, not a veneer stonewall.

MR. CUMBERLY: I didn't see on the plans where it said one -- I saw the elevation but I didn't see any notes that referred to the specific materials.

MS. ARENT: I don't have all my plans here.

MR. CUMBERLY: We can go over that.

MS. ARENT: I'm going to go away on

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NEWBURGH RETAIL DEVELOPERS

vacation. Tomorrow we have to talk about that.

MR. CUMBERLY: That's fine.

MS. ARENT: Will you be available?

CHAIRMAN EWASUTYN: We don't have plans here?

MR. CUMBERLY: I have a set of drawings here.

MR. HINES: The other issue, while we're looking at that, is the local newspaper reported that there was not a Starbucks on the project anymore either. What is that going to look like in the interim while you're looking for a tenant for that?

MR. DOWN: Mr. Chairman, do you want me to address that comment?

CHAIRMAN EWASUTYN: Why don't you.

MR. DOWN: At this point Starbucks is not going to be coming into that location. They may change their mind in 2009. They may not. We're currently looking for a replacement tenant. We fully understand if we're going to make any changes to the pad or the elevations that we need to appear in front of the Board again.

CHAIRMAN EWASUTYN: Are there stamps on

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the plans?

MS. ARENT: I don't see the wall on here. I have to check through all the plans because there's a lot of architectural drawings, too.

CHAIRMAN EWASUTYN: Those are stamped, signed plans that he has there?

MR. HINES: No.

CHAIRMAN EWASUTYN: They're stamped, signed plans?

MS. ARENT: No.

CHAIRMAN EWASUTYN: Ken Mennerich is discussing something here. I think in all fairness, and you know that you can't be walking around showing the plans that aren't stamped, signed plans. How do you build with plans that aren't stamp and signed?

MR. CUMBERLY: Stamped and signed by the design professional?

MS. ARENT: By the Chair.

CHAIRMAN EWASUTYN: The final plans. Final site plans.

Ken, what do you have?

MR. MENNERICH: On sheet 9 of 10 they

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have the detail, the stonewall detail. There's a note on it that says fieldstones are hand selected, placed and grouted for tight aesthetic configuration and stability. Wall construction by Warren Landscaping or approved people.

CHAIRMAN EWASUTYN: That's what we've been approving all along.

MR. MENNERICH: The subbase shows eight-inch compacted gravel, subbase three foot wide.

MR. CUMBERLY: I'll have to look at that.

MR. HINES: Don't pour that concrete.

MR. CUMBERLY: I assumed a concrete base --

MS. ARENT: A concrete base would be okay.

MR. CUMBERLY: -- would be acceptable in lieu of a stone base.

MS. ARENT: Absolutely. What we are concerned with is what we see. The concrete base is fine.

MR. CUMBERLY: Okay.

CHAIRMAN EWASUTYN: So the motion at

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this point is to approve the new free-standing pylon sign subject to Karen Arent meeting in the field with -- Kevin, is it?

MR. DOWN: Yes.

CHAIRMAN EWASUTYN: With Kevin. Your last name?

MR. CUMBERLY: Cumberly.

CHAIRMAN EWASUTYN: In which case we'll get a report back from Karen. When we get that report back from Karen, we could do it under Board business, we'll approve the new pylon sign. At the same time Kevin will have to meet with Karen to resolve this issue of the fieldstone wall and report back to us.

Okay. So I'll move for a motion to approve the new location of the pylon sign subject to Karen and Kevin meeting in the field and Karen sending a letter back approving that.

MR. BROWNE: So moved.

MR. MENNERICH: Second.

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

(No response.)

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NEWBURGH RETAIL DEVELOPERS

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Thank you.

Kevin, the other outstanding issue is we received correspondence from the Thruway Authority. At that point in time they seemed to be indicating by July 10th I think it was they were looking for the restoration of the encroachment on their property. It's more of a legal matter between you and the Thruway Authority. Can you bring us along on that?

MR. DOWN: The status is we're still going through the appeal process. I made two New York State FOIL requests. I received my last set of documents about a week ago. I've enlisted the help of Senator John Flanagan from Long Island and am going to enlist the help of Senator Larkin, the local senator up here. I will be advised of the decision by the New York State

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Thruway but we have to go through the process.

CHAIRMAN EWASUTYN: All right.

Anything else you would like to add at this time?

MR. DOWN: No.

CHAIRMAN EWASUTYN: Thank you for taking a break from your vacation. I think that's it for now.

MR. DOWN: Thank you.

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

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

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

DATED: August 16, 2008

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

----- X

In the Matter of

EXTENSION OF BUILDING BLOCKS CHILD CARE CENTER
(2006-56)

248 Lakeside Road
Section 51; Block 10; Lot 11.1
B Zone

----- X

AMENDED SITE PLAN

Date: August 7, 2008
Time: 8:28 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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW & STEPHEN GABA

----- X

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

1
2 MS. HAINES: The next item of
3 business we have is the extension of Building
4 Blocks Child Care Center. It's an amended
5 site plan located at 248 Lakeside Road, it is
6 in a B Zone and being represented by Greg
7 Shaw.

8 MR. GABA: Good evening.

9 CHAIRMAN EWASUTYN: Mr. Gaba.

10 MR. GABA: My evening. My name is
11 Steve Gaba, I'm the attorney for the applicant,
12 Building Blocks Child Care Center. This is an
13 application for amended site plan approval.
14 We're back before you tonight with a set of
15 revised plans and we're seeking a referral to the
16 Zoning Board of Appeals for a determination of
17 consistency with the use variance that was
18 previously granted.

19 The subject property is located at the
20 corner of Route 52 and Lakeside Road. It's in
21 the B district. In the B district child care
22 centers are not permitted uses, however in 1996 a
23 use variance was granted for this property to
24 allow operation of a child care center on it. In
25 1997 this Board granted site plan approval for

1 the project, and since that time Building Blocks
2 has been operating a child care daycare center on
3 the property. In 2006 Building Blocks decided
4 that it wished to use their two buildings on the
5 property, the main structure, the old Dan Leghorn
6 firehouse, and an accessory building which is 36
7 by 91 -- no, 16. Excuse me. 36 by 16. They
8 wished to use that for a classroom. That is to
9 say to move children out of the main building and
10 to establish that as a child care area as well.
11

12 On application of this Board we were
13 given a referral to the Zoning Board of Appeals
14 for an interpretation of consistency of the
15 proposed use with the use variance that had been
16 granted.

17 Now, I didn't represent the applicant
18 for the Zoning Board of Appeals. Other than
19 reading over the minutes I don't really know what
20 transpired there. There is no written resolution
21 embodying what the Zoning Board's decision might
22 have been. However, it does appear from the
23 minutes that somehow they denied the application
24 that Building Blocks submitted. As the Board
25 knows, once the use variance is granted the use

1 variance extends to the entire property. I don't
2 think there's any question that if Building
3 Blocks had determined to enlarge the main
4 building to put more students in it, that they
5 would not need a use variance and they would be
6 entitled to do that subject to site plan
7 approval, and of course compliance with the
8 Town's bulk requirements. It seemed to us,
9 Building Blocks, that putting a classroom in the
10 second building really wasn't substantively
11 different than putting an addition onto the main
12 building. So we felt that there must have been
13 some confusion or mistake. In March of this year
14 we came back to this Board and we asked for
15 another referral. Now, this Board was reluctant
16 to issue another referral, a second referral on
17 the exact same set of plans, and they pointed out
18 to us that if we felt there had been a mistake or
19 some confusion we could go back to the Zoning
20 Board and ask for a re-hearing. We agreed to do
21 that but at the same time we suggested that if
22 the plans were revised so that it presented a
23 substantially different plan than what was before
24 this Board the first time, that a second referral
25

1 could be given, that it wouldn't present the same
2 issues and there would be no procedural
3 difficulty in doing that. This Board in March
4 graciously tabled that and they said, you know,
5 pending the outcome of your application to the
6 Zoning Board for re-hearing, and of course
7 pending our submission of the revised plans, they
8 want to see what we're proposing, you were going
9 to put that on hold.
10

11 Well, we went back to the Zoning Board,
12 we appeared before them in April and they heard
13 us, and they had us back in May and they heard us
14 some more. They considered everything that we
15 had to say on this application and the law, and
16 at the end of the day six members of the Zoning
17 Board voted to grant the hearing but one member
18 voted not to. Unfortunately, at least
19 unfortunately for us, under the Town law in order
20 to get a re-hearing you have to have the
21 unanimous vote of all the members who are present
22 at the time. So even though six Zoning Board
23 members vote for the re-hearing, one no vote
24 prevented the re-hearing. There was again no
25 written resolution, there was no explanation of

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findings or anything like that. What the basis of the no vote was is something of a mystery to us, but here we are.

So we went back to the drawing board and we came up with a plan which substantially revises, we feel, what it is that was proposed before. Particularly what we're doing is we're connecting and integrating two buildings into a single daycare center complex, a single building connected.

Reading over the minutes of the Zoning Board the first time around when I didn't represent them, it appeared to us that an issue that concerned them was establishing a single use in two separate buildings. I don't think they liked the idea of spreading the use out in multiple structures. We feel that by integrating the two and connecting it that we can address that concern.

So we would like this Board to give us a referral on this new revised set of plans to the Zoning Board for an interpretation as to whether it's consistent with the use variance.

MR. DONNELLY: I'll just add to that

1 that I think Steve has accurately done the
2 history, but just to remember what we had done
3 when the issue that Steve touched on last, and
4 that is whether or not the use variance in fact
5 allowed the use to be conducted in two separate
6 buildings first came before you, we referred it
7 to the Zoning Board for a clarification. I guess
8 that's a type of interpretation. When it came
9 back to us the decision was very difficult to see
10 whether they touched upon the issue. That's when
11 Steve asked if we would send him a second time.
12 My advice to you was we sent him to them once
13 with a very specific request to rule on it. I
14 think it would be an affront to the Zoning Board
15 to send back the same thing claiming they didn't
16 rule. However, what Steve proposes now is
17 different, and with the combined building the
18 referral can go to the Zoning Board for them to
19 advise us whether or not the use variance they
20 granted in fact now authorizes the use to be
21 conducted in a single building. I no longer have
22 the reservation that it would be an affront to
23 the ZBA to send the same application twice.
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25 It's my recommendation to you that you

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do refer them for them to rule as to the extent of the use variance already granted insofar as this new revised plan is concerned. I think it's fair and appropriate.

CHAIRMAN EWASUTYN: Okay. Having heard the explanation for referral to the Zoning Board of Appeals for a determination on the use authorized and the extension of that use I believe to reflect the canopy that would connect to the existing building on site -- Mike.

MR. DONNELLY: They can always reach the issue of whether it's an expansion but I think the referral is primarily for a clarification of whether or not the use variance that has already been granted allows the use to be carried out and is now a large single structure.

CHAIRMAN EWASUTYN: You'll prepare a letter to go with this?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Any questions from the Board Members?

MR. BROWNE: Yes. Pat, with what's being proposed, the change, does that in fact

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make this a single structure? Technically how does it work?

MR. HINES: Certainly with the breezeway connecting it it makes it a single structure. I've recommended to my clients in other projects to do the very same thing to accomplish what they're accomplishing.

I just have a question of whether the fabric roof meets that intent. They may want to check with the code enforcement officer to make sure that's truly a permanent structure, connection.

MR. BROWNE: Obviously I know from your end you believe that but I wanted to hear from our guys too.

MR. SHAW: We'll verify that with the building inspector. Thank you.

CHAIRMAN EWASUTYN: Any comments from the Board Members?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: I'll move for a motion to refer this to the ZBA.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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BUILDING BLOCKS CHILD CARE CENTER

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Thank you.

MR. GABA: Thank you very much.

(Time noted: 8:37 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: August 16, 2008

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

----- X

In the Matter of

HUDSON HEALTH PLAN
(2008-18)

1401 Route 300
Section 30; Block 3; Lot 41.21
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: August 7, 2008
Time: 8:37 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOSEPH SIEGEL

----- X

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

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HUDSON HEALTH PLAN

MS. HAINES: The last item of business we have tonight is the Hudson Health Plan. It is a conceptual site plan located at 1401 Route 300, it's in an IB Zone and it's being represented by Charles Wallace.

MR. SIEGEL: Good evening, Mr. Chairman, Members of the Board. My name is Joseph Siegel and I represent the tenant that is looking to go into the Newburgh Mall, Hudson Health. We're here to get some help from you with regard to a use variance as well as the revision to the door that will access their space.

We have a problem with regard to a major financial burden from our client. They are presently in a space that their lease expired six months ago, they're paying double the rent and what we would like to try to walk away with tonight is the ability to get the approval to build out their space, once we of course have a building permit.

CHAIRMAN EWASUTYN: Okay. Thank you. Pat, you had a comment on this.

MR. HINES: Yeah. I have a couple

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comments. When I read the narrative it looked like they would be accessed from the mall interior itself, but I looked at the plans and it looks like that's just an emergency exit into a structure which really isn't an emergency exit by any means. It looked like in the narrative you were going to either come in the from the mall or the outside.

MR. SIEGEL: They'll be coming in from the outside.

MR. HINES: I don't know that the other one qualifies as an emergency exit. You may want to look at that for building code issues.

MR. SIEGEL: Absolutely.

MR. HINES: Also on a general note, on sheet 1-1, specifically notes 6 and 8 refer to some site improvements, removing of sidewalks. I think they may have been left over from --

MR. SIEGEL: From another job.

MR. HINES: -- another job or another project because there's no site plan work necessary.

MR. SIEGEL: That's correct.

MR. HINES: There was an estimate of

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the amount of fill to be removed from the site and some estimate of the amount of concrete to be poured, and I think those need to be removed from any plans that will be approved by the Board because I don't think there's any work other than adding the door to the exterior of the building.

MR. SIEGEL: That's correct.

MR. HINES: Those are the only things we have.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: The drawings do not include the elevation of the facade where the new door is proposed. This should be included in the drawings.

The square footage of signage should be compared with the square footage allowed for the entire site, and you should submit a table to illustrate that the signage conforms.

MR. SIEGEL: What we hoped would happen is that we will provide you with the signage information as well as related to your comments with the landscaping, what you would like to happen out there, but it's very important for us to be able to build the space so we don't lose,

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you know, months in the approval process. We will agree to accommodate you every which way.

MS. ARENT: You will have to provide the information for us to review that.

MR. SIEGEL: Sure.

MS. ARENT: You have to provide the square footage of the signs that are out there as well as what you're proposing.

And then there's space outside of the facade where the door is proposed that could be landscaped to create an attractive entrance from the office. Where there's a main door there's like all this asphalt space that's not in use for anything. If so desired there could be landscaping and curbing or something put in to make it look nicer.

MS. LAKE: I'm Kate Lake, general manager of the mall. Karen, would you consider letting us do planter boxes of some kind or --

MS. ARENT: Unfortunately they usually don't grow plants well --

MS. LAKE: Okay.

MS. ARENT: -- because they dry out very quickly. So it's better to actually put it

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in the ground.

MS. LAKE: Okay.

MS. ARENT: There is a huge area of asphalt. I mean this is up to the Board, but there is a ten foot -- I didn't measure but it looks like about ten feet of asphalt that's not -- that just goes up to the side of the building that's not used for driving or walkways or anything.

MS. LAKE: Right now it's striped for a fire lane. I don't know if Jerry needs to comment on if we can do something with that space.

MS. ARENT: Jerry would have to, yes. I don't know, you know, what the -- I'm just suggesting it could look a lot nicer than what it looks like.

MR. SIEGEL: I have the new door super-imposed on a photograph of the building. If I could share it with I don't know who but you can see --

CHAIRMAN EWASUTYN: Karen would be the person, unfortunately she's going away on vacation.

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HUDSON HEALTH PLAN

You'll be due back when?

MS. ARENT: August 24th.

CHAIRMAN EWASUTYN: Will you be back for the next consultants' work session?

MS. ARENT: Yes. That's a Tuesday.

CHAIRMAN EWASUTYN: I think at this particular point I'll move for a motion to set this up for the next consultants' work session --

MR. HINES: It's the 26th.

CHAIRMAN EWASUTYN: -- which is the 26th. Go over your revisions at that point and the Board could discuss it at that meeting --

MR. SIEGEL: Okay.

CHAIRMAN EWASUTYN: -- because there are too many -- they're minor but there are too many issues out there that we couldn't make an approval subject to this and subject to that without having the actual drawings in front of us or in front of the consultants. All right.

MR. DONNELLY: One clarification. Did I hear mention there's a need for a use variance?

MS. LAKE: Change of use.

MR. DONNELLY: That's what I thought it was.

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CHAIRMAN EWASUTYN: They brought it back here because the building department, I think it was Joe Matina, said there was a change in the use.

MR. DONNELLY: To office. Right.

CHAIRMAN EWASUTYN: I'll move for a motion to set this up for the next consultants' work session.

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.

CHAIRMAN EWASUTYN: Aye.

MR. DONNELLY: One last question. What's the square footage of the space involved?

MR. SIEGEL: 1,000 square feet.

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HUDSON HEALTH PLAN

Thank you.

MR. HINES: Dina, you're going to tell Bryant, right?

MS. HAINES: I'll tell Bryant.

MR. BROWNE: On the one before with Building Blocks, would it be appropriate for us to send a note to the ZBA about what we're doing with this?

CHAIRMAN EWASUTYN: Mike is. We said that earlier.

MR. DONNELLY: It will be our third letter. I'll attach the other two.

MR. BROWNE: Thank you.

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

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

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

DATED: August 16, 2008

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

----- X
In the Matter of

SHYAM
(2005-51)

Refferal to the Zoning Board of Appeals

----- X

BOARD BUSINESS

Date: August 7, 2008
Time: 8:45 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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SHYAM

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CHAIRMAN EWASUTYN: Dina, do you want to walk us through Board Business and then we could conclude.

MS. HAINES: Sure. The first item on Board Business tonight is Shyam. We need to refer it to the ZBA.

CHAIRMAN EWASUTYN: Okay. And that's for -- do you want to bring us along, Karen, Pat, someone? This is on Shyam.

MR. HINES: It's more of a Karen thing. It's signage.

CHAIRMAN EWASUTYN: Karen, I think what was allowed was 140 square feet and what they're proposing is 316 square feet. Correct?

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: So we're referring them on to the ZBA for a variance.

MS. ARENT: They have all the appropriate notes on the drawing saying the signs have to go where they're shown on the architectural drawings, they're not going to be in the window anymore, et cetera.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to refer this to the Zoning Board of

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SHYAM

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Appeals for a -- it would be an area variance.

MS. ARENT: Sign area.

CHAIRMAN EWASUTYN: Mike Donnelly will probably have a referral letter associated with that.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. Do I have a second?

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 8:46 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: August 16, 2008

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

----- X

In the Matter of

LANDS OF MITCHETTI
(2004-67)

Request for exemption from the Planning Board
review process

----- X

BOARD BUSINESS

Date: August 7, 2008
Time: 8:46 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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LANDS OF MITCHETTI

MS. HAINES: The next one we have is lands of Mitchetti. We received a letter from Rick Mitchetti dated August 1, 2008. He's requesting exemption of the Planning Board review process based on the fact that the building square footage is less than 2,500 square feet.

CHAIRMAN EWASUTYN: Okay. My thoughts on this -- we have a letter from Mike Donnelly, and I think Mike will have the time to give us a brief discussion of the letter. It was my intention that we would set this up for the next available consultants' work session to come to a clear understanding as to what Mr. Mitchetti is looking to accomplish and whether or not we have the authority to move this on to the building department based upon square footage.

Mike.

MR. DONNELLY: Very quickly, there are two provisions of the Zoning Law that give the Planning Board the discretionary authority to dispense with the requirements of formal site plan review and approval. One applies in the normal course, meaning an applicant that would normally need site plan approval, and that

1 exemption is capable of being granted when a
2 building is under 2,500 square feet. The second
3 section has to do with nonconforming uses and
4 structures for which some proposal would require
5 site plan approval, and in that case you are
6 permitted to dispense with the requirement of
7 such review if the area of the site and building
8 is under 2,500 square feet. So the trigger
9 language is slightly different. You are not
10 required in any case to waive the formal
11 requirements, you are just authorized to do so.
12 I think the intent is for small sites, small
13 buildings where it would not be necessary to put
14 the applicant through that level of formal
15 review, you had the discretion to give them the
16 green light if everything else about the
17 application seems in order.

18
19 This particular applicant was before
20 you in 2004 with the proposal. I can not tell
21 you if it's the same thing he wants to do now.
22 His letter doesn't make that clear to me. At
23 that time he was referred to the Zoning Board for
24 a variance, and indeed after he came back
25 additional items of noncompliance with the

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particular requirements of automotive service station use that he proposed were found and he hasn't come back to you since.

It may be, and I really can't tell from the letter, that what he is proposing is something different, maybe something on a different site. I don't think you have enough information to determine whether or not this is an appropriate case for that type of discretionary relinquishment of the requirements of site plan approval. I think you need some more information.

CHAIRMAN EWASUTYN: Questions from Board Members?

MR. GALLI: I have just a couple questions, John. I see Ken Lytle is out there. I think he was one of the original ones that brought this to us.

The question I had is I don't know -- I tried to find out about the ZBA results and I couldn't find anything out because they were in a meeting. I don't know if they ever got ZBA denial or approval or if they ever went.

The second thing is the original site

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LANDS OF MITCHETTI

plan, I think the problem that we had and he had trying to agree with us was selling of the used cars.

MR. LYTLE: That's correct.

MR. GALLI: I think that was the big issue at the time.

MR. LYTLE: That's where we stopped with the ZBA.

MR. GALLI: He did go to the ZBA?

MR. LYTLE: He did and they denied -- he had a dealer license. At that point he didn't want to go any further. That was the main point of his business.

MR. GALLI: They denied him?

MR. LYTLE: That's correct. We haven't been back to the Planning Board since. Now he's under special circumstances from the tornado.

MR. GALLI: I realize he had a tornado that affected his building. If he had plans on still building his building why didn't he keep coming forward? He didn't want to give up the used car business?

MR. LYTLE: At that point he didn't want to give up the car business. Now it's a

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LANDS OF MITCHETTI

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matter of providing for his family. Before we were planning on tearing down the existing garage and putting up a much larger facility. Now I think it's around a 1,200 square foot addition to the existing garage, the left side of the existing garage only.

CHAIRMAN EWASUTYN: Is he still proposing to sell used cars?

MR. LYTLE: No. Nope. That's why I have to meet with Wayne Booth. They thought this was a possible option to do, that's why we pursued this issue.

CHAIRMAN EWASUTYN: Questions from Cliff Browne?

MR. BROWNE: Given the history, I think it would be appropriate for it to continue to come through us, although I would think that if things are as straightforward as Ken is projecting, it should come through pretty quickly. We'll look at what he's talking about. If it's that straightforward then there should be no reason to have any long delays anyplace. I think given the history I think we need to look at it.

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LANDS OF MITCHETTI

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think also we need to look at it. Really we don't know what he's proposing. We haven't seen what he's proposing under this latest whatever he's presented to the Town. It would seem -- you know, we don't even have anything that says he's going to give up the used car business.

MR. LYTTLE: That used car business was actually only associated with the address across the street. He's not able to transfer over. That's why we had to go to the ZBA, to get approval to bring it across the street.

I have a sample of what the addition would look like, what he's proposing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I think with a little bit more clarification and seeing what he wants to do that the waiver is possible but not without knowing what he wants to do specifically.

CHAIRMAN EWASUTYN: Is it a waiver, Mike?

MR. DONNELLY: I think waiver, exemption, neither of those words is used. It's

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the authority for the Planning Board to dispense with the requirement of formal site plan review and approval. If you want to call it an exemption or waiver, I think both terms are close enough to be accurate.

MR. BROWNE: Let me make a comment if I may. I think historically, once or twice, I think we've been presented with something similar and we denied doing the waiver because we didn't want to set a precedent, et cetera, those kinds of things. I think if we do that in this case we should be very clear as to what we're doing and why we're doing it.

MR. GALLI: John, if I could again. I mean he's been before us before. The building is smaller. I think he knows what the Planning Board is looking for. I think Ken knows what the Planning Board is looking for as far as the landscaping, the building, the business. I can't see the screening. I can't see why it can't be -- I'm not going to say fast tracked but why his approval process shouldn't take that long. I mean realistically to throw it in the building department's hands for approval and they're going

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to go in for a building permit and they don't know what they're building. If they're going to start issuing building permits on a set of plans, they don't know the design guidelines. We still have design guidelines in the Town. It's only going to take a meeting or two to move it forward. I mean we're not that busy on our schedule I don't think personally where we can't move it forward. I would like to see it first to see -- they know what we're looking for, they've been through us already once or twice. I mean they should have everything on the plans and ready to go. That's my personal opinion.

MR. LYTTLE: Is it something we can work out with the Board at the workshop?

CHAIRMAN EWASUTYN: I think what he's saying is -- it was never really the intention of working it out with the Board at the workshop. The intention was to move it to the work session so the consultants could have a general understanding of what you're doing and then bring it back to the Planning Board. I understand that your meeting with the Town was somewhat different, it was to sort of bring it to sort of

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a conclusion. What I'm hearing from the Board is the Board wants to be part of that conclusion. What I'm also hearing is that we don't have, the consultants or ourselves, any information to base any decisions on at this point.

So with all that being said, I'll move to set this up for the next available date for a consultants' work session, Dina will arrange that with Bryant, then I'll set it up for the Planning Board -- Dina, we have the Polo Club and we have to look at our draft September 4th agenda -- to set this up for an agenda item for the 4th of September for the Planning Board to decide.

MR. LYTTLE: Did you say December or September?

MR. GALLI: September.

CHAIRMAN EWASUTYN: September 4th for the Planning Board to -- it would be easy except everyone is going on vacation. I'm getting a little tired. I don't have that luxury. Anyway, we'll set it up for the 4th of September for the Planning Board to look at the site plan and to get the results back from the consultants' work session. At that point we'll come to a decision.

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LANDS OF MITCHETTI

MR. LYTTLE: Actually, should I bring plans to the workshop or submit them prior?

CHAIRMAN EWASUTYN: I would say bring them to the workshop. Speak to Bryant and see how Bryant wants to manage that when Bryant is back. Bryant makes those decisions.

Can I have that motion?

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you.

MR. LYTTLE: Thank you.

(Time noted: 8:56 p.m.)

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

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DATED: August 16, 2008

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

----- X

In the Matter of

AMENDMENT OF LOCAL LAW CHAPTER 185

Request for Planning Board review and comment

----- X

BOARD BUSINESS

Date: August 7, 2008
Time: 8:56 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MS. HAINES: The next thing on Board Business is the amendment of Local Law Chapter 185. It's to establish the light and heavy industrial equipment and recreational vehicle sales, service and repair overlay. Mark Taylor was requesting the Planning Board review and comment.

CHAIRMAN EWASUTYN: Karen, you and Bryant worked on the outline. Has everyone had a chance to read that, their opinions of that? Before we get into the actual details of it, let's see if the Board Members are in agreement with what you and Bryant worked on. And if that's the case then I'll move for a motion to refer our comments to the Town Board.

MR. GALLI: I agree there was some mention in there about large parcels of land have to be available for this type of use because of noise and the size of equipment. Heavy equipment is usually pretty large. I agree with what they were saying about the air quality and life quality, noise quality. I don't know if there's anything left that large in the Town. I'm sure they're talking about 9W heading toward the

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Marlboro area, that section out there. You still have a lot of residential. I agree with them, I think the overlay is -- it would be tough to do. I really do. I really think it would be tough to do, changing the zoning out there.

CHAIRMAN EWASUTYN: Cliff, did you have a chance --

MR. BROWNE: I haven't, John.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I agree with Frank. I think their memo points out even if the Town Board does decide to go ahead with this overlay district, they've got some dimensions they better consider because what's proposed now wouldn't work for the types of businesses that they're proposing for the overlay district. So I think it's a good memo.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: I agree. I thought it was good.

CHAIRMAN EWASUTYN: Do you want to take a brief moment. Anything you want to add?

I myself find it less comfortable to go along with at this point in time since we've

1 worked so hard on just trying to develop the 9W
2 corridor along with the comprehensive guideline
3 standards. Realizing that in the planning
4 process it could take several years going through
5 the process until you have something approved to
6 the time it's built out, and since we're in the
7 early stages of threading that needle, actually
8 weave a pattern up 9W, this would be in
9 contradiction to what we thought was the meaning
10 and the purpose of the guideline standards. I'm
11 also in agreement with Planning Board Members
12 that the lot sizes that this could propose would
13 just stand out overwhelmingly.

14
15 If you have anything else, please.

16 MS. ARENT: I just made this -- I don't
17 know if you can see it. You can see there's a
18 lot of undeveloped parcels left that provide a
19 lot of greenery in this corridor that you don't
20 realize is there until it's gone. These type of
21 uses would wipe out any greenery that's left
22 over.

23 One of the big problems is the big
24 steep slopes that really constrain the size of
25 the usable portions of this -- of these

1 properties, and it really pushes it very close to
2 Route 9W. So it would be really difficult to
3 screen it. And then when you carefully look at
4 this map you can see all the pockets of
5 residential properties that are very close to
6 this type of use whereas this type of use is more
7 appropriate I think on the 17K corridor.
8

9 MR. GALLI: Stewart.

10 MS. ARENT: Near Stewart or something
11 like that where there are big parcels. Maybe
12 there's a road that can go into a big parcel of
13 land and you can have a couple of --

14 MR. GALLI: The Auto Auction.

15 MS. ARENT: Like the Auto Auction type
16 of thing. To have them very close to the
17 residential properties doesn't make sense.

18 We also pointed out in our memo that if
19 you're trying to develop a community in a
20 walkable -- not necessarily a walkable community
21 but a community, since you're so close to all
22 these residential areas it makes more sense to
23 provide services for residential property --
24 residential uses. In addition, if you have the
25 big construction vehicles coming in on the big

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trailers, you're coming all the way from 84 on a road that's really not made for that and it's already congested. The whole concept didn't really make too much sense when you looked at it from all the different angles, the land form, the transportation, the type of use that exists, what the Planning Board has been trying to do, the fact that it's the gateway to Newburgh and, you know, it's next to one of the most beautiful places probably in the State or country. This area is beautiful. To have such a contrast, just it doesn't make a lot of sense.

MR. BROWNE: Can I ask a question?

CHAIRMAN EWASUTYN: Sure.

MR. BROWNE: Typically something like this is being driven by something. Does anybody have any idea what's driving this? Something just doesn't pop out of thin air. There's usually a background of somebody pushing.

MR. GALLI: Did an applicant put an application in for something maybe and we don't have that zoning or something?

MS. ARENT: The only other thing I can think of is the recreation vehicle storage. Some

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of these things could possibly be done on some other properties, but to make it an overlay district and allow -- I think it should be a property-by-property thing. Maybe you could store recreational vehicles in that storage yard that we just recently looked at in the back behind -- the self-storage on the left on 9W with the big green space in the front that's Vince Doce's or Jim Raab's.

CHAIRMAN EWASUTYN: Pine Tree Inn. That would be an example of property. If you recall, I believe it's five acres.

MS. ARENT: That's a bigger property. It is quite sloping. If it was worked right you could possibly do something.

MR. GALLI: When you look at these projects that they're talking about in the overlay district, I mean when I first read it the first thing that came to mind is when you drive up the Thruway and you see the RV place, that is huge, and then you go up toward Albany and there's another one.

CHAIRMAN EWASUTYN: A little above Cocksackie.

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MR. GALLI: If they're talking RVs, that's RVs and little boats. It's huge and all you see are these vehicles. That's what you're picturing in your mind, that kind of overlay and driving up the road.

MS. ARENT: Overlay district.

MR. GALLI: Even if you see fifty of them on a piece of property, or thirty of them, that's a lot of vehicles just parked there. If you're talking about the heavy equipment use, the trucks, the tractors, backhoes, bulldozers, farm equipment. If you ride past John Deere up there, it used to be Herman's, they're set back off the road and they're hard to see if you're heading north, but once you make that turn -- I mean at one time he had a lot of equipment there that was noticeable, very noticeable. That's what I picture in my mind when you're driving up there. I thought we were trying to make it -- trying to get the greenway passed so you can walk up that way and go to the river. There's a big push for the county for green space along the river and the 9W corridor. Like I said, like Cliff says, I don't know where it came out of but I just can't

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picture this area of the Town -- vision that for this area of the Town personally.

MR. MENNERICH: I think the 9W corridor is probably one of the main roads in the Town of Newburgh, one of the last ones to really see any of the benefits of the new design guidelines and stuff. Some of the projects that have come in on 9W, the one that comes to mind is the modular home dealer where they were packing them into that small little lot. You'd hate to see an expansion of that type of development for that area.

MS. ARENT: That's a good example. Those modular homes are about as big as some of the house trailers, the recreation vehicles.

CHAIRMAN EWASUTYN: I think also what might be driving it is there are a few properties up there that are for sale that went under and I'm sure someone wants to come in and take those and, you know, quickly turn it into that type of use but it's not permitted so they're looking to go to the Town Board to grant that so they can buy these properties and sort of "put them back on the tax rolls." There's that transfusion of

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investment.

MR. BROWNE: Are you essentially saying that we don't like it?

MS. ARENT: That it doesn't really conform to most of the smaller properties because of the vastness and scale of blacktop that you need and buildings that you need, so that it doesn't make sense for aesthetic reasons, transportation reasons, also sound because of all the heavy equipment being relatively close to residential properties. If they did go ahead and approve something like this, make sure the bulk table is in line with the actual space that a use like this would require.

MR. BROWNE: Give them some wiggle room.

CHAIRMAN EWASUTYN: What they're saying too in their review of it is there's no mention of this complying with the design guideline standards.

MS. ARENT: Nothing about screening from 9W. It had something about screening from the people that are on the site. We were like why would you screen from people that want to see

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these recreation vehicles. Why wouldn't you screen it from 9W. There was no mention of anything of that. No guidelines as to how deep a buffer -- the buffer has guidelines but nothing from Route 9W, how thick the landscaping would need to be or what needs to be screened. They also said the repair of the heavy equipment had to be inside a building. You could just imagine how big the building is. That building is not going to be brick. They're huge steel buildings. That's going to dominate the --

MR. BROWNE: And junk sitting outside waiting to be repaired.

CHAIRMAN EWASUTYN: Then you get into issues if the building is greater than thirty feet you have to get into building codes as far as the width of the drive islands which means that you have to have drive aisles which means you don't have any buffers. Basically what you wind up with is a very tall building, a lot of blacktop and --

MS. ARENT: No landscaping. So we asked them if they're seriously considering it, to draw out a site to see exactly how much space

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is the minimum space required to do it right.

MR. MENNERICH: Also I think -- I don't think it was in your memo. Maybe we should be pointing out the fact that at some point 9W may be widened and that could affect, you know, how close building setbacks could be to 9W.

MS. ARENT: Sure. We could add that if you want.

CHAIRMAN EWASUTYN: Then I'll move for a motion to refer our comments on the Amended Local Law Chapter 185 to the Town Board for their consideration.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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CHAIRMAN EWASUTYN: Myself. So
carried.

MR. DONNELLY: John, I take it this
means a letter should be sent saying the Planning
Board recommends against enactment of the law for
the reasons stated in the memorandum prepared by
Karen and Bryant dated such and such rather than
me do it. You're going to change that one piece
and then send it? Do you have time?

MS. ARENT: I'll do that.

CHAIRMAN EWASUTYN: Or Bryant. I mean
you can do it.

MS. ARENT: I think I'll have time. If
I don't I'll send Bryant an e-mail.

(Time noted: 9:08 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: August 16, 2008

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

----- X
In the Matter of

COMPARISON OF NEW APPLICATIONS

July 2007 to July 2008

----- X

BOARD BUSINESS

Date: August 7, 2008
Time: 9:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MS. HAINES: We have the comparison of applications from July of `07 to July of `08. In `07 we had more applications but in `08 we took in more money.

(Time noted: 9:08 p.m.)

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

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

DATED: August 16, 2008

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

----- X
In the Matter of

INVENTORY OF ARCHIVED PLANNING BOARD FILES

----- X

BOARD BUSINESS

Date: August 7, 2008
Time: 9:09 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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CHAIRMAN EWASUTYN: And the last thing I'll take is I would like to congratulate Dina for spending the time, which she's still working on, going through the files in the basement.

Dina, do you want to explain what the eventual completion of the task is, what you're looking to do down there ultimately?

MS. HAINES: Eventually what's going to end up happening is once I get all the files cataloged I'm going to re-box them into smaller, more compact boxes, have a better labeling system where they're labeled on the outside as well as have a list in the office similar to the list I attached here but it will be actually in alphabetical order of all the files, what box they're in, where I can find it.

I was going to ask everybody if they have time, if they feel so inclined, if they could just go through my list and maybe see if there's misspelled last names. If you notice one of the projects does not have a project number, that's because what was written on the file was not what was in the computer system and I can't find it. So maybe you'll say oh, well I remember

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this person, it wasn't under that name it was under the other project name, and that way I can find the project number that way. If you guys have time, like I said, and feel so inclined, let me know.

CHAIRMAN EWASUTYN: What we also did is we put in our 2009 budget for the additional dollar amount to purchase the necessary -- Dina did an inventory of what she felt she would need to cover the purchasing of boxes. That's part of our request from the Town Board for an increase just to cover the purchase of the boxes, which was somewhere in the neighborhood of \$620 or \$650.

MS. HAINES: It was 100 boxes and I think \$600. I think it came to like \$500 and change but I requested \$600 to be safe.

CHAIRMAN EWASUTYN: Thank you. Any other comments from Board Members before we go?

MR. MENNERICH: Just a quick question. Dina, on the ones that are listed here, are these all projects that were approved or were signed?

MS. HAINES: To be honest, it's mixed because when they were put downstairs they were

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just taken from the file drawers upstairs and put

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in boxes and put downstairs in no particular

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order. So I don't know if they're approved or

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not. I guess later on after I'm done I could go

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through extensively to each one and write down if

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they were approved or not. Right now the main

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goal is to get the room downstairs cleaned and

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organized so we can have access to the files

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without, you know, being hindered.

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What happens is lots of times I get

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FOILED on projects that are really old and I have

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to tell people we don't have it because I can't

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find it when it really should be downstairs.

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CHAIRMAN EWASUTYN: If there are no

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further questions and comments, I'll move for a

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motion to close the Planning Board meeting of the

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7th of August.

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MR. GALLI: So moved.

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MR. PROFACI: Second.

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CHAIRMAN EWASUTYN: I have a motion by

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Frank Galli. I have a second by Joe Profaci.

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I'll ask for a roll call vote starting with Frank

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Galli.

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MR. GALLI: Aye.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself.

(Time noted: 9:12 p.m.)

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

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