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

----- X

In the Matter of

POTTER'S RIDGE
(2012-05)

6 & 11 Potter's Ridge Road
Section 26; Block 6; Lots 20 & 23
R-2 Zone

----- X

TWO-LOT RESIDENTIAL SUBDIVISION
and LOT LINE CHANGE

Date: September 6, 2012
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN &
JAMES RAAB

----- X

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

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MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of September 6, 2012.

At this time I'll ask for a roll call starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

MR. PROFACI: The Planning Board employs various consultants to advise the Board on matters of importance, including SEQRA issues. I ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh Code Compliance Supervisor.

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

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MR. COCKS: Bryant Cocks, Planning Consultant.

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

MR. WARD: Please stand to say the Pledge.

(Pledge of Allegiance.)

MR. WARD: Please turn off your phones or put them on vibrate. Thank you.

MR. PROFACI: The first item on tonight's agenda is Potter's Ridge. It's a two-lot residential subdivision and lot line change, 6 & 11 Potter's Ridge Road, Section 26; Block 6; Lots 20 and 23, located in the R-2 Zone, represented by Charles Brown.

MR. BROWN: Thank you. This is a 4.5 acre parcel. The proposal is to create one new building lot and also add some property to the Thurston lot, which is lot 23. I was under the impression it was on a private road. After getting Pat's comments and checking, it is a common driveway, so we will be submitting revised plans and we'll provide twenty-feet of additional property added to the Thurston lot to get fee

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access to Leslie Road.

The existing house on 11 Potter's Ridge, the main piece, is serviced by a well and septic. As is Thurston's lot, the proposed new lot would be serviced by Town water and an on-site septic system.

That's about it for the presentation.

CHAIRMAN EWASUTYN: Thank you, Charlie.

At this point we'll turn to our consultants. Pat Hines, McGoey, Hauser & Edsall?

MR. HINES: Our first comment has to do with what Mr. Brown just mentioned regarding the common driveway situation versus the private road that was labeled. If it is going to stay a common driveway, you also need Town Board approval for three lots on a common driveway.

MR. BROWN: Right. Do we need a referral from the Planning Board for that or we just go straight to the Town Board?

MR. DONNELLY: I think you can go on your own.

MR. HINES: That will be a requirement. That also is my second comment regarding the need to have fee access out to the Town road, which I

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POTTER'S RIDGE

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guess you're going to make that a flag lot now.

MR. BROWN: Yes.

MR. HINES: The other comment is the septic system on the new proposed lot seems to be a hybrid of a conventional septic system and a fill system.

MR. BROWN: I have to apologize for that, Pat. The original 12-inch perks were from way back when we did deeps, back in '03. We went back this year and in June they were 24-inch perks. So they're mislabeled on this. I'll reconfigure that septic for an in-ground septic with no fill.

MR. HINES: Then you need to eliminate the fill system.

MR. BROWN: Correct.

MR. HINES: We'll be looking for those revised plans also. Those are the two comments we had on this.

CHAIRMAN EWASUTYN: Thank you.

Bryant Cocks, Planning Consultant?

MR. COCKS: My first comment is in regard to the Thurston lot. It's an existing nonconforming lot in the R-2 zone. Because of the

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lot line change with the Brown lot, it loses that existing nonconforming status. So two variances will be necessary, one for minimum lot area, where 21,286 square feet is proposed while 40,000 square feet is required; and one for lot width, where 141 feet is proposed and 150 feet is required.

MR. BROWN: Now, because it's not going to become a flag lot, it wouldn't be the width, it would be the depth. It's still 150. We still need a variance. We would like to get a referral from the Planning Board to the ZBA for that.

CHAIRMAN EWASUTYN: And the variance is for what now?

MR. BROWN: Lot area and lot depth.

CHAIRMAN EWASUTYN: Thank you.

MR. COCKS: My second comment is regarding the residential lot area requirement. On the Thurston lot you need to show a minimum buildable area of 10,000 square feet. The Brown lot and the new proposed lot will have to show a proposed 5,250 square feet, which I believe can be shown.

A survey will be required, stamped and

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sealed.

Other than that, we will need to do the mailing for the new local law, just letting the property owners know that the subdivision is planned.

MR. BROWN: That doesn't apply to the Thurston lot because it already contains a residence?

MR. HINES: You have to show that.

MR. COCKS: You have to show it.

MR. BROWN: That lot doesn't make minimum building area. I understood that was for new building lots that were being created. This is a lot that already contains a residence.

MR. HINES: It's losing its protection because you're changing the lot geometry.

MR. BROWN: Within that code it says it's for new building lots. If that's the case, we lost the right to ask the Planning Board for a referral for variances?

CHAIRMAN EWASUTYN: For buildable area?

MR. BROWN: For buildable area. We don't have that on the Thurston lot. Even with the additional acreage we're adding, we won't

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have it.

MR. HINES: Just to clarify, the Brown lot is serviced by a well; correct?

MR. BROWN: Yes.

MR. HINES: That needs the larger building envelop shown also.

MR. BROWN: Okay. Not a problem.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: I think the consultants covered it.

Just one thing. The new proposed lot, did I hear you say, Charlie, that you're going to bring municipal water to it?

MR. BROWN: Yes. It's shown with water service.

MR. CANFIELD: You're aware that that water main on Leslie Road that you'll be tapping into is on the north side? It's on the other side. Of course there will be an added expense.

MR. BROWN: Yeah. We show it on the other side of Leslie Road. We're aware of that. We did the plans and we're project manager on the adjoining house there, so we're well aware of

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that.

MR. CANFIELD: Okay. And just a clean-up item. Maybe on the resubmittal, the lot size requirement, I think on there you had for lot 1 was 17,500. That's only if the site engages in municipal water. If not, it's 40,000.

MR. BROWN: That applies to the new lot but not the remaining lot with the Brown house on it. I'll have to reconfigure that.

MR. CANFIELD: Right.

That's all I have, John.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: No comments.

CHAIRMAN EWASUTYN: Tom?

MR. FOGARTY: I just wondered, does any type of work have to be done on that driveway now that you're going to have three driveways emptying into it? Does it have to conform to any standards or anything?

MR. HINES: There is no requirement for that, but they do need Town Board approval to do the three lots on one driveway. They'll be looking at those kind of issues if they grant

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that approval.

MR. CANFIELD: If they don't, it needs to be brought up to private road specs. That will be something different.

MR. BROWN: Or we would have to bring the driveway for the proposed lot all the way down to Audrey Road, which really doesn't make sense financially.

MR. HINES: You're running out of value for that lot.

MR. BROWN: Correct. Right.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have no questions.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

MR. BROWNE: No.

MR. GALLI: No.

CHAIRMAN EWASUTYN: Mike, would you review with the Board and the public the referral letter that you'll be preparing and sending to the ZBA for the necessary variances?

MR. DONNELLY: Sure. I will, if the Board directs me to do so, write a letter to the Zoning Board of Appeals asking them to consider

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granting a variance for minimum lot area, lot depth and buildable area. If I understand correctly, all for the existing Thurston lot.

MR. BROWN: Correct.

MR. DONNELLY: My question is that lot is not going to be reconfigured in any fashion as part of what you're --

MR. BROWN: Yes, we are. We're going to give it fee access to Leslie and we're adding more property to it but it's not going to meet -- because it's traversed by a well and septic, it's not going to meet the minimum requirement.

MR. DONNELLY: I guess my question is should we have that plan before us before we refer it? Not to say you can't go right away. I don't want to see us in a position where you get a variance for a lot that we haven't even seen and it comes back and there's some need to reconfigure it here. I'm not trying to slow you down.

CHAIRMAN EWASUTYN: I'll get the Board's opinion on that. Frank Galli?

MR. GALLI: I'm sorry?

CHAIRMAN EWASUTYN: Do you want to

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repeat that, Mike?

MR. DONNELLY: The lot that's going to need the variances is going to be reconfigured in the next redesign of the plans to provide fee access out to the road, and I'm wondering, not necessarily recommending, whether we should wait until you have seen that reconfiguration before you send it over to the Zoning Board for the variance.

MR. GALLI: If he doesn't do it right, it's going to cost him another month.

MR. DONNELLY: It would cost him a month because he couldn't go to the Zoning Board on your referral until they came back with a new plan. If it's just to provide fee access to the roadway and the rest of it isn't changing, it probably doesn't matter. What's going to happen is they'll be submitting a revised plan to the Zoning Board that you haven't seen.

MR. GALLI: I would like to see a copy of it.

CHAIRMAN EWASUTYN: So you want it to come back before the Board?

MR. GALLI: Yeah. I would like to see

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a copy before it goes to the Zoning Board.

MR. BROWNE: Yes.

MR. FOGARTY: They would probably send it back to us anyway. The ZBA would.

MR. HINES: It would come back to you after the ZBA.

MR. FOGARTY: They may send it back to us --

CHAIRMAN EWASUTYN: When do you think you might be ready with the revised plans?

MR. BROWN: Tomorrow. I actually have the plan set up.

CHAIRMAN EWASUTYN: Then what we'll do is set you for the meeting of September 20th.

MR. BROWN: Thank you very much.

CHAIRMAN EWASUTYN: Bryant, would you make a note of that?

MR. BROWN: Thank you very much.

CHAIRMAN EWASUTYN: You're welcome.

(Time noted: 7:07 p.m.)

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

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

DATED: September 26, 2012

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

----- X
In the Matter of

GREINER SUBDIVISION
(2002-33)

Lattintown Road
Section 7; Block 1; Lot 22.25
AR Zone

----- X

PUBLIC HEARING
FIVE-LOT RESIDENTIAL SUBDIVISION

Date: September 6, 2012
Time: 7:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- X

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MR. PROFACI: The next item on tonight's agenda is the Greiner Subdivision, located on Lattintown Road, opposite Merritt Lane. It's Section 7; Block 1; Lot 22.25, located in the AR Zone. It's a public hearing on a five-lot residential subdivision being represented by Greg Shaw.

Prior to the presentation I will ask Michael Donnelly, Planning Board Attorney, to explain the purpose of a public hearing.

MR. DONNELLY: We have two public hearings on this evening. Both of them are for subdivision applications. Perhaps by coincidence, both of them are subdivisions that had already been approved. Each of them is coming back to the Board for an amended approval to reduce the size, scope and number of lots that had earlier been approved.

The purpose of a public hearing is for the Planning Board, before it takes action on either of these projects, to hear from you, the members of the public, those of you near the project, concerns that you may have that the Planning Board may not itself have recognized or

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that its consultants may not have advised them of. After the applicant gives his presentation, the Chairman will ask those who wish to speak to raise your hands. He will then recognize you. I would ask you to step forward if you could. Please give your name and your address to the Stenographer, and spell your name, or at least speak it slowly so we can get it down accurately. We would ask that you direct your comments to the Board. If you have questions, direct them to the Board, and if it makes sense the Chairman will ask either one of the Town's consultants or the applicant's engineer to respond to the question.

CHAIRMAN EWASUTYN: Thank you.

Mr. Mennerich.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York, will hold a public hearing pursuant to Section 276 of the Town Law on the application of Greiner Subdivision for a five-lot subdivision on premises Lattintown Road, opposite Merritt Lane in the Town of Newburgh, designated on Town tax

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map as Section 7; Block 1; Lot 22.25. The Greiner Subdivision is a former eleven-lot major subdivision that has been redesigned as a five-lot minor subdivision. There will be no extension of Greiner Road. Four lots will be accessed from Greiner Lane and one will be accessed directly from Lattintown Road. Said hearing will be held on the 6th day of September 2012 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated August 20, 2012."

MR. GALLI: The notice of hearing was published in The Mid-Hudson Times and also The Sentinel. The applicant mailed out 23 notices, 14 were signed and returned.

CHAIRMAN EWASUTYN: Thank you.

Mr. Shaw, would you give your presentation, please?

MR. SHAW: Yes. I'll be brief because we've covered a lot of ground already. This

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project has been around -- this subdivision has been around for awhile. It's 26 acres and in the AR zoning district on Lattintown Road, the east side across from Merritt Lane. The minimum lot size is 40,000 square feet. We submitted an application to this Board around 2004, and at that point there was an extension of Greiner Road which was going to terminate in a temporary cul-de-sac in this area. With that there was going to be a water quality stormwater detention pond located in the southeasterly corner of the site due to the amount of disturbance and impervious area that's being generated.

The site also has a 100-foot Central Hudson easement that runs through it in the north/south direction and a drainage course which runs in the east/west direction.

Once we received preliminary subdivision approval from the Board, we went and did our subsurface testing and drilled test wells and submitted it to the Orange County Department of Health. In 2007 we received realty subdivision approval from the Health Department for all eleven lots based upon their review and

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testing of the soils and of the wells themselves.

Years have past, and in 2011 we obtained from this Board conditional subdivision approval for the eleven newly created lots. So here we are, ten months later, the economy being what it is, and my client has revisited the subdivision and has elected to downscale it. Instead of proposing eleven newly created lots, we're proposing a total of five newly created lots. One would have access off of Lattintown Road, the others would be from Greiner Road which is presently a Town road.

Because our disturbance throughout the entire site is going to be less than 5 acres, we do not have to comply with a water quality stormwater detention pond nor the piping that goes along with it. A lot of the elements, such as the drainage district which was required with the eleven-lot subdivision, is now a moot issue.

So we are before you tonight asking for a subdivision approval for the five lots and only the five lots. I believe a letter was dropped off at your office, a to be held in escrow letter from Mr. Greiner rescinding the application for

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the major subdivision with this minor subdivision before you tonight.

CHAIRMAN EWASUTYN: Thank you.

As Mike Donnelly had said earlier, at this point we'll open the meeting to the public. If you'd raise your hand and give your name and your address, we'll take your questions or comments.

MR. BENNINGER: George Benninger, I live at 5 Greiner Road, Newburgh. I want to ask Mr. Shaw several questions about the site plan if I could.

CHAIRMAN EWASUTYN: Go ahead.

MR. BENNINGER: Would you show me the site off Lattintown Road?

MR. SHAW: Can I show you the what?

MR. BENNINGER: The site. How many acres will it be?

MR. SHAW: This lot right here, lot number 5, will be 43,683 square feet.

MR. BENNINGER: Which is how many acres?

MR. SHAW: Just a little over 1 acre.

MR. BENNINGER: And these three are as

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listed, 1.12, 1.18 and 1.51?

MR. SHAW: Correct.

MR. BENNINGER: You said it's a five-lot subdivision. These are three, four. Where is the fifth lot?

MR. SHAW: You're just pointing to it. Lot number 9 which is the balance of the parcel.

MR. BENNINGER: Lot number 9 says 22 acres.

MR. SHAW: That is. That will be 22 acres.

MR. BENNINGER: How can you have -- you said you're going to do less than 5 acres, five lots. I don't understand.

MR. SHAW: Well, we have lot number 5, 6, 7, 8 and 9. That's five lots.

MR. BENNINGER: Okay. But you said they are less than 5 acres.

MR. SHAW: No, I didn't.

MR. HINES: What he suggested was because of the stormwater management regulations, this being a residential subdivision, less than 5 acres disturbance. Anything less than 5 acres of disturbance doesn't trigger the need for water

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quality and quantity control. Residential subdivisions with 1 acre and 5 acres of disturbance only need a soil erosion and sediment control plan as per the stormwater management requirement.

MR. BENNINGER: I understand that.

This is one lot, this entire outline?

MR. SHAW: Correct. 22 acres.

MR. BENNINGER: It lists 22 acres. Are you going to do one property for 22 acres?

MR. SHAW: As of this right now. No one is guaranteeing a house is going to be built on it. We're creating a lot.

MR. BENNINGER: Okay.

MR. SHAW: It may continue to be farmed.

MR. BENNINGER: 22 acres. Okay. It just wasn't clear to me when you said less than 5 acres.

MR. SHAW: Of disturbance.

MR. BENNINGER: All right.

MR. SHAW: Thank you.

CHAIRMAN EWASUTYN: Other questions or comments from the public --

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MR. BENNINGER: I do.

CHAIRMAN EWASUTYN: -- in reference to the Greiner subdivision?

MR. BENNINGER: I do have a few more. Is this going to be reclassified as commercial when -- if it indeed gets approved or will it be agricultural which it is now?

MR. SHAW: It will remain in the agricultural residential district and it will not be commercial. I don't believe commercial is allowed in that district.

MR. BENNINGER: Suppose a lot is sold, for example the lot on Greiner Road. Is it then still agricultural?

CHAIRMAN EWASUTYN: I'll let Mike Donnelly respond.

MR. DONNELLY: The zoning district will not be changed by this subdivision. On sale, the zoning district won't change. Both before and after the subdivision and before and after the sale, the uses permitted in the AR zoning district will be allowed, which is agricultural or residential.

MR. BENNINGER: So if I buy a lot I'm

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buying an agricultural lot?

MR. DONNELLY: You're buying a lot that's zoned AR, agricultural residential.

MR. BENNINGER: I would just like to get the tax implications of someone who purchases a lot.

MR. DONNELLY: Will there be a tax impact when the lots are created? That's the assessor's job. I believe the assessor -- the total taxes payable on this will be more when it's divided into lots than when it's a single parcel by virtue of that approval.

MR. HINES: Lots need to be greater than 7 acres in size in order to get an agricultural exemption on them. Once these become less than 7-acre residential lots, the agricultural exemption goes away. There's actually a three-year roll back, I believe, on previous agricultural uses.

MR. DONNELLY: Correct.

CHAIRMAN EWASUTYN: I will wait for Mr. Benninger to complete.

MR. BENNINGER: For the moment that's it.

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CHAIRMAN EWASUTYN: Okay.

MR. LOMBARDI: My name is Lombardi, 3 Greiner Road. I'm a little concerned about storm drainage. I know when we get heavy rains, my lot gets inundated with water from above. I'm concerned that the water from the other side of the road will cross the road, or from the one on Lattintown. Will any drainage be put in on the opposite side of the road? Storm drainage.

MR. SHAW: The lots that are on Greiner Road are lower in elevation than your house. If anything, the water that's on your lot will be flowing in an easterly direction. It's not going to be flowing westerly towards your property. With respect to the lot which is going to be on Lattintown Road, that is probably 700, 800 feet away from your lot and the discharge flows in another direction.

MR. LOMBARDI: So you're saying the lots on the opposite side of the road, on the eastern side of the road are lower than my lot?

MR. HINES: Yes.

MR. SHAW: Looking at the topography, yes. The elevation of the newly created lots,

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okay, are lower in elevation than the elevation of your property.

MR. LOMBARDI: Right now I look at it and the land is actually higher than my property.

MR. SHAW: Okay.

MR. LOMBARDI: So that is my concern about storm drainage.

MR. SHAW: I can tell you that the stormwater that's being generated by the newer lots will be flowing in an easterly direction. They won't be flowing towards --

MR. LOMBARDI: Toward the rear of their homes?

MR. SHAW: Towards the rear of their homes. Towards the 22 acres that's going to be part of the remaining lot.

MR. LOMBARDI: Okay.

CHAIRMAN EWASUTYN: This gentleman here.

MR. LEVINSTEIN: My name is Lance Levinstein, I live at 94 Lattintown Road. My property adjoins Greiner in the back. My concern is, yet again, additional utilization of Lattintown Road by five additional lots given the

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fact that there are literally dozens, perhaps hundreds of lots that have already been approved on the western side of Lattintown Road that have not been built for economic reasons at this point, but when they are built that will just add to the utilization of Lattintown Road which currently is used day and night, heavily traveled for what is really a rural road. My main concern is the additional utilization that will be brought by adding five more lots onto -- especially on Lattintown Road, The egress from Greiner onto Lattintown Road for the four lots.

My second point has to do with whether or not the four lots, or actually any of the five lots will be tapped into the natural gas line that currently I believe ends at Greiner and Lattintown Road.

MR. SHAW: I can't answer that. That is an issue that is normally not dealt with by the Planning Board. First of all, I wasn't aware of the gas line. Whether Central Hudson will allow someone to tap into it, I can't speak for them.

MR. LEVINSTEIN: My concern on that is

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because 90 Lattintown and 94 Lattintown are the only two houses, and I believe folks that live in Greiner, correct me if I'm wrong, but I don't think there is a natural gas line that runs through Greiner, therefore it makes those two properties very unique to have an uninterrupted supply of natural gas onto those two properties. As a result, there's a value issue on those two properties if in fact these four properties would also then be tapped into a natural gas line. So I have concern on that third matter as well.

So for those three reasons I would oppose this request for a subdivision.

CHAIRMAN EWASUTYN: Mike, do you want to answer questions as far as access onto a Town road?

MR. DONNELLY: In one sense you're saying it's five more, in another sense it's six less. Eleven were already approved. My memory was at the time we had the whole series of developments, that Ken Wersted looked at the traffic projections and impact from all of that development. While there are indeed some intersection difficulties at 9W that the DOT is

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aware of, the trip generation was appropriate for the roadway in his opinion, and that's a recommendation the Planning Board followed when it approved the eleven lots.

MR. SHAW: Mike, can I also --

MR. DONNELLY: Ken Wersted, by the way, is the Town's traffic engineer.

MR. SHAW: Can I also interject? When that traffic study was prepared and reviewed by Ken Wersted, also on the table was Wildflower Vista which was thirty-four lots. That has since gone away. So there's been a substantial reduction in the number of lots from about five years ago.

CHAIRMAN EWASUTYN: Do you want to talk about the gas issue, anyone?

MR. DONNELLY: I think Greg began to answer that. That has nothing to do with the Planning Board. Whether the utility company is willing to install gas lines in a roadway, who will pay for it, when there's enough of a critical mass that it makes sense for them to do it are all issues that are in their hands.

CHAIRMAN EWASUTYN: Additional comments

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from the public? Mr. Benninger.

MR. BENNINGER: I have another issue about trees. Again I'm quoting from the eleven-lot subdivision we had here on August 17, 2006 about the Greiner subdivision. Mr. Mennerich at that time said, this is on page 77, "I guess I would move that Eric work this out with the applicant such that there are street trees installed on lots 8, 9 and 10 along with the rest of the subdivision." That was not ever done on those lots. Will it be done with the new subdivision?

MR. DONNELLY: There are no streets now. I assume that condition goes away.

MR. BENNINGER: No streets?

MR. HINES: That had to do with an extension of Greiner Road in a northerly direction. If this road was being extended as it was previously proposed, there would be a requirement that street trees be planted at forty-foot intervals along there. This project before you now, the scaled down version, only accesses the existing Town road. So that requirement for street trees wouldn't fall into

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place because Greiner Road is a Town road at this point.

MR. BENNINGER: I have nothing else.

CHAIRMAN EWASUTYN: Mr. Lombardi, is it?

MR. LOMBARDI: Yes.

CHAIRMAN EWASUTYN: Any additional comments?

MR. LOMBARDI: Is there any way we can get Mr. Greiner to put trees in since he'll be tearing down all the apple orchard and making the land bare? It would be nice to have Mr. Greiner agree to put up some trees.

CHAIRMAN EWASUTYN: I think that's really up to the applicant's representative.

MR. SHAW: I think commonsense is if somebody buys a lot and they're going to build a house, they're going to invest some money into landscaping for the house also. It goes hand in hand with the other. So if you're -- right now you're looking at a lot of trees. If that land does become disturbed and a house and driveway gets created, I'm sure there will be landscaping right behind it.

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CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Final comments from our consultants. Jerry Canfield, Code Compliance?

MR. CANFIELD: I have nothing to add at this time.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Our first comment had to do with rescinding the eleven-lot subdivision. I understand a letter has been submitted to the Planning Board. I haven't seen that. Maybe Mike has, or someone. A letter --

CHAIRMAN EWASUTYN: Mike has.

MR. HINES: -- taking the major subdivision off the table. We didn't want the project to be viewed as part of a larger development scheme per the DEC regulations if it's truly the five-lot subdivision before us now. I've been told that letter has been submitted.

The second outstanding comment which we

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discussed at the last meeting is that when this was a major subdivision the plans were reviewed by the Orange County Health Department and soil testing was required due to the agricultural pesticide residue potential on the subdivision. We're suggesting a note be added to the plans, since it's a minor subdivision now and the County Health Department is out of it, that the purchasers of the individual lots receive confirmation that the required remediation shown on one of the plan sheets, I forget which number, has been undertaken. We discussed that last time with the applicant's representative.

There are several easements required, including an outstanding Central Hudson easement.

Then there's an issue with the Town Board as a drainage district was established for the project when it was a major subdivision. That needs to be eliminated. That also needs to be part of any conditional approval granted for the project.

MR. DONNELLY: The Central Hudson issue was resolved after the last approval.

MR. HINES: Okay.

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MR. DONNELLY: There's documentation in the file.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I have no additional comments.

CHAIRMAN EWASUTYN: Comments from Board Members? Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

MR. PROFACI: Nothing.

MR. FOGARTY: I just have one. I know we got a letter from Central Hudson indicating there's a 150,000 volt transmission line that goes through the properties. If construction were to take place how is that line protected?

MR. SHAW: It's very high in the air, for openers. The only work we're doing within that easement area is installing one four-inch diameter PVC pipe. That's it. The crossings to get to the pond are now moot. The large diameter

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drainage pipe which was going to cross the easement to get to the pond has now been eliminated. That is going to be the only work within the Central Hudson easement.

MR. HINES: The septic system for lot 8 is on the opposite side. That's the only work. The lateral to the septic system.

MR. FOGARTY: Somewhere in the materials -- is there a need for a new survey because the ownership has changed on this?

MR. HINES: The lots are labeled. When that typically happens -- lots change ownership all the time. They're labeled as Maurer formerly. That's the reason why that statement was put there. They're predecessors in ownership or owners before. One could have sold today and we wouldn't know it. That's typically not updated very often. They're in the chain of title there at some point.

MR. FOGARTY: Thank you.

CHAIRMAN PORCO: John Ward?

MR. WARD: My comments were covered. Thank you.

CHAIRMAN EWASUTYN: Any additional

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comments from the public before I move to close the public hearing?

MR. BENNINGER: I want to thank the Board Members for the opportunity to participate in the planning process and promote, hopefully, the public health, safety and welfare of the Town's citizens and certainly us here, and hope that they do support codes that establish minimum requirements consistent with nationally recognized good practices for providing a reasonable level of safety, property protection and matters related to construction.

I just want to make one additional point. Greiner Road is really a secondary road and was never designed to handle excess axle loads that you might get with a 70,000 to 80,000 pound cement truck, for example. Greiner Road is not up to code specifications and it should have never been dedicated a Town road. It is breaking down since it does not have the usual six to eight inches of item 4 as a base, three inches of coarse base, one-and-a-half inches of a binder and one-and-a-half inches of a top coat that a primary road would have. I recognize that the

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Planning Board can not fix this but it should be noted in the discussion today as an issue. Some Members might take this to the Town Board as an issue.

CHAIRMAN EWASUTYN: Thank you.

Jerry, do you want to respond to that at all?

MR. CANFIELD: I can, by Mr.

Benninger's comments, refer this. This would be something that would be under the jurisdiction of either the highway department, because it is a Town road, and/or the Town Board. By your comments, and I've been making notes tonight, I will mention it to Supervisor Booth and also Highway Superintendent Darrell Benedict to pass your concerns on.

MR. BENNINGER: I'd appreciate it.

Thank you.

CHAIRMAN EWASUTYN: If there's no further comments or questions from the public, I'll move for a motion from the Planning Board to close the public hearing for the Greiner Subdivision for the five-lot residential subdivision.

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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.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to give us conditions for preliminary approval.

MR. DONNELLY: I think we can do, the end of our discussion at the work session, both preliminary and final, and include the condition relating to the need to resolve the drainage district before the map is signed. So the

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resolution is amended preliminary and final approval.

Pat, does this need it's own SPDES permit or is this a notice of intent under the general --

MR. HINES: It will be a general permit.

MR. DONNELLY: Notice of intent prior to construction?

MR. HINES: Yes. The other issue is we need to reaffirm the neg dec at some point.

MR. DONNELLY: I think we did that August 16th. It's the other one.

The second condition is the requirement that the applicant return to the Town Board to have the drainage district that was earlier created dissolved, and the plat will not be signed and released for filing until the district is resolved.

The final condition is the payment of parkland fees of \$2,000 per lot.

CHAIRMAN EWASUTYN: Any questions or comments from the Board or the Consultants on the conditions for both preliminary approval and

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final approval presented by Mike Donnelly,
Planning Board Attorney?

(No response.)

CHAIRMAN EWASUTYN: Okay. Then I'll
move for a motion to grant approval for the
five-lot subdivision subject to conditions
presented by Attorney Mike Donnelly.

MR. GALLI: So moved.

MR. WARD: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

I would like to thank the public for
coming out for the public hearing.

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(Time noted: 7:35 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: September 26, 2012

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

----- X
In the Matter of

ELM FARM
(2000-09)

Wells & Fostertown Roads
Section 39; Block 1; Lot 12.44
AR Zone

----- X

PUBLIC HEARING
AMENDED 52-LOT RESIDENTIAL SUBDIVISION

Date: September 6, 2012
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JASON PITINGARO

----- X

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

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MR. PROFACI: The next item on tonight's agenda is also a public hearing. It's on Elm Farm located at Wells and Fostertown Road, Section 39; Block 1; Lot 12.44, located in the R-2 zone. It is an amended 52-lot residential subdivision being represented by --

MR. PITINGARO: Jason Pitingaro, KC Engineering.

MR. PROFACI: Thank you. I'll ask Mr. Mennerich to read the notice of public hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Elm Farm subdivision for a 52-lot subdivision on premises Wells Road and Fostertown Road (Orange County realty property has the address only listed as Wells Road) in the Town of Newburgh, designated on Town tax map as Section 39; Block 1; Lot 12.44. The Elm Farm subdivision was previously granted conditional preliminary subdivision approval for 54 lots. The applicant has revised

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ELM FARM 45

the plans to comply with the current zoning law in the Town of Newburgh and has eliminated 2 lots to meet all requirements. The elimination of one cul-de-sac on Quince Road and a reduction in lots was a substantial enough change to warrant a new public hearing on the project. Said hearing will be held on the 6th day of September 2012 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated August 10, 2012."

MR. GALLI: The notice of hearing was published in The Mid-Hudson Times and The Sentinel. The applicant mailed out 56 notices, 44 were signed for and returned, 2 were undeliverable. Everything is in order.

CHAIRMAN EWASUTYN: Would you make your presentation, please.

MR. PITINGARO: Sure. Elm Farm is a 52-lot, like we just discussed previously 54-lot, subdivision near the intersection of Fostertown

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and Wells Road.

Several years ago, I think it was 2008, we received the approval for the 54 lots, the preliminary approval, and then we proceeded to obtain the other approvals necessary, realty subdivision, Health Department and DEC approvals. We did obtain those but at that time the project didn't go forward.

We resubmitted the project recently and modified the layout to remove a lot in this area and I believe up here to allow the lots to conform with the 5,000 square foot building envelop that was required. Once we removed the lot in this area we decided to remove the cul-de-sac on Quince Court that served the 3 lots in that area because it was no longer necessary. We now have a shared driveway for just the 2 lots that remain there.

All the lots conform to the zoning of the district, which is R-2. We have water and sewer serving the whole district and a couple stormwater ponds serving the subdivision as well.

CHAIRMAN EWASUTYN: Thank you. As in the example of the public hearing that was just

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before us, anyone with questions or comments,
please raise your hand and give your name and
your address.

MS. INGRAM: My name is Trisha Ingram,
I-N-G-R-A-M, 37 Adonna Drive. I just want to
confirm that it is all sewer and water, because
in the original plans it was not, only the
parcels next to Wells Road were and not the back
parcels. So that is true, it's all --

MR. PITINGARO: Yes. They're all
served by Town sewer and water. Yes.

MS. INGRAM: I also notice that the
access road to Wells Road has been changed.
Originally it was farther over, not between the
existing houses that were there.

MR. PITINGARO: No. To Wells Road?

MS. INGRAM: Yes.

MR. PITINGARO: No. The location
remains the same.

MS. INGRAM: It does. Okay.

MR. HINES: There was an additional
road that's been removed.

MS. INGRAM: Oh, there was an
additional road.

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MR. PITINGARO: There was a cul-de-sac here that served 3 lots. That has actually been eliminated and only 2 lots remain, and those are served by a single driveway now.

MS. INGRAM: Okay. My comment is I don't know if you're familiar with Wells Road but it's not a double lane, like a yellow line going down. There are no street lights. It's a cut through. People toss their garbage all over the place and, you know, the speed going around that turn, there's a very blind turn, people are always speeding, and I just foresee many accidents at that intersection. I don't know if the Town can address that as far as lighting or -- you know, obviously this is going to go through but, you know, it's definitely accidents waiting to happen.

MR. PITINGARO: I'll add to that that we do have a sight easement here to provide additional sight distance in this direction and a lot here that's designated for the stormwater basin.

MS. INGRAM: It's actually the entrance coming from Fostertown Road going down Wells.

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MR. PITINGARO: This entrance here?

MS. INGRAM: No. Wells Road entrance coming from Fostertown Road.

MR. PITINGARO: That road is beyond our property, this intersection.

MS. INGRAM: It's pitch black.

MR. PITINGARO: Additionally, Fostertown Road is a County road, so that would be, I believe, a County Highway Department issue, County DPW issue.

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

MR. HINES: That is a County roadway under the jurisdiction of the Department of Public Works with the County.

MS. INGRAM: I'm talking Wells Road. Going on Wells Road from Fostertown Road, going down that way is a blind turn. With no lighting it's pitch black, very dark through there, even on a rainy day, and I -- you know, it's just going to be a blind spot for cars coming out of that development entering Wells Road.

MR. HINES: Cars coming out of the development, as the applicant's representative

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said, there's what they call a sight easement. The vegetation along the frontage of this lot is proposed to be cleared.

MS. INGRAM: There is no vegetation but there are existing homes.

MR. HINES: I mean on this lot here. Where Quince Court was proposed.

MS. INGRAM: Where that access road is is coming out between 2 existing homes?

MR. HINES: Right. The clearing is going to be beyond those homes, towards Fostertown Road.

MS. INGRAM: That still doesn't address it, because when you come around that turn, that hill is over here. It still does not address it, as these individuals can all tell you. We all live in that area.

MR. HINES: It was previously reviewed by Ken Wersted's office during that review process. I mean we can bring it up to him again.

MR. PITINGARO: I would mention to the Board that although -- I think the area she's referring to is here. We had previously access further down the road, and that was approved as

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well. At this point we're another 100 plus feet down from the original access of Quince Road. So I do -- I'm certain we do meet any sight distance requirements for Blackmon Court. Even Quince Road had met sight distance requirements and that was further towards the area of concern.

MR. HINES: I think the issue is not sight distance but the actual speed that the cars are traveling on that road. It's an enforcement issue more than --

MS. INGRAM: Speed, and that road is pitch black. It's all wooded.

CHAIRMAN EWASUTYN: Speed is something that the Planning Board can't control.

MS. INGRAM: I know.

CHAIRMAN EWASUTYN: As far as the Town looking to establish a lighting district in that area, that would be a Town Board action, to establish a lighting district.

MS. INGRAM: Okay.

CHAIRMAN EWASUTYN: Trisha, we don't have enforcement authority, as an example the speed or lighting districts. That's really a Town Board decision.

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MS. INGRAM: So my question to you is to approve such a plan without having the whole picture taken care of, you know, that's a detriment to the people who live in that area.

CHAIRMAN EWASUTYN: I'm not quite clear on what you mean by that.

MS. INGRAM: Meaning that if those issues are not addressed, somebody is going to get killed in that area eventually is my point. So you're approving something -- I'm okay with the fact that this is going to happen. I mean I accept that. My concern is the safety issue that we will have to deal with on a daily basis.

CHAIRMAN EWASUTYN: Mike, do you want to respond?

MR. DONNELLY: There are certain issues for which there are absolute requirements. For instance, in terms of lighting they have to be at intersections. When it goes beyond that, that becomes not an issue for this developer or for the Planning Board but one for the Town Board as to whether or not, if there are enough people who desire lighting and to pay for lighting, whether they want to have it installed. You could get

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your neighbors to petition the Town Board for the creation of a lighting district and the lot owners, as well as the new lot owners here, would pay for the electricity and construction of those light poles. It's not a requirement. It's not a requirement that the Planning Board could impose. It's an optional amenity that the Town Board, if the neighbors in the area want it, might be willing to approve.

MS. INGRAM: Okay.

CHAIRMAN EWASUTYN: Additional comments from the public? Sir.

MR. HENDERSON: William Henderson, 60 Wells Road. Our house is right on the road coming out, and I have a concern with the water runoff that comes out from down -- it's a hill. In the wintertime the water that comes off of that hill into our property is just -- you wouldn't believe the water that comes down there. I had a ditch dug along the back of my property that borders those properties and the water runs like a stream every winter. We've been there 27 years. The first year before we had our property graded, the Town was out in front of our house

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almost every day because the water just came down and out onto the road and they had to -- because of the ice it would freeze, and they had to drain it, and then the next summer they put a culvert pipe in. But there's so much water that comes out of there it goes over the pipe. That's how much water runs down from that hill, down the ditch that I have put in. Also, the ditch that I have put in doesn't even contain that water. It comes out onto my property. I'm concerned about the runoff that's going to come down off of that hill.

MR. PITINGARO: Let me, if I may. You live in one of these residences?

MR. HENDERSON: I live in the one on the corner, 60.

MR. PITINGARO: This one here?

MR. HENDERSON: Yeah.

MR. PITINGARO: What I would say is that the runoff that's generally running off here, surface runoff that's making it's way to your backyard, is going to be intercepted by the road drainage network in here and conveyed to the stormwater ponds. This pond actually drains

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around this property via pipe to this pond and crosses here. It would most likely alleviate some of the problems in your particular yard.

MR. HENDERSON: I have another issue she brought up with that turn. My driveway is right there. When I'm pulling out of my driveway, you have to pull out quick because you can't see the cars coming around that curve on Wells Road. You're saying about that it's shrubbery. It's that big stone embankment that's there. I don't know what -- if you don't pull out quick onto Wells Road, the cars come around that curve so quick you can't even see them. You have to pull out of my driveway. That's what's going to happen on that road pulling out onto Wells Road with 54 houses. That's all I have.

CHAIRMAN EWASUTYN: Pat, do you want to just look at the drainage?

MR. HINES: Actually, the pipes in the vicinity of your house are being upgraded and the water is going to be conveyed across the street which now flows overland across the street. So there's a series of closed pipe drainage systems proposed to run that water away from your house

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into a detention pond. There's a large pond proposed behind your house so it will serve as a buffer to any of the residential. There's a large pond behind there. It will be brought over to where the former cul-de-sac was with a new pipe crossing across Wells Road to the DEC wetlands. That's one of the permits they need to get from the DEC to allow the installation of these pipes.

I'm just wondering if your driveway is not going to be relocated.

MR. HENDERSON: I have a temporary variance from when I had the house built 28 years ago.

MR. HINES: But they've done a comprehensive stormwater management study. The one outstanding issue we have with this is that they're working with the DEC and I haven't heard back yet. Because the project has been going on so long, the DEC regulations have changed in between. There's some grandfathering clauses in those regulations. We're checking right now, along with the applicant, with the DEC to make sure that the 2006 and 2008 approvals are still

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valid. That's one of the comments we have is that all the outside agency permits need to come back.

MS. PETRILLO: Iris Petrillo, P-E-T-R-I-L-L-O. I live at 336 Fostertown Road. I'd like to address a couple concerns that you already heard, one from Trish.

As far as Wells Road, I know it is a Town road, it is very small. There's a lot of traffic on it now. I just can not see how safely it can handle 54 more homes coming in and out. The traffic has just, you know, really increased in that area as it is. There's really not much on either side, as Trisha was saying, to expand the road.

Also to comment about the lighting, it is very, very dark, that road. When you're driving on it in the rain -- I've been at Fostertown Road for 26 years so I've been traveling that road for a long time. Just the increase of a few houses on that road have increased the traffic there and the safety. Sometimes you come around the turn, that S turn that we've all been talking about, and I don't

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know -- we're all from the Town here. Most of us have traveled on Wells Road and know how dangerous that S turn is. To have cars coming out right at the end of that seems to me like such a safety issue that I don't think it should be just set to the side instead of having traffic studies to look at the, you know, sight there. I'd hate to have a real bad accident. I just want it on record we feel very strongly that it's a safety issue with that road coming out on that side of that S turn on Wells Road.

Lighting. I don't see why at the intersection of the new development road going in, I don't know the name of it, off of Wells, why lighting can't be done at least at that end by the builder to show that there is an intersection there and that traffic is going to be going in and out. I know I happen to be fortunate and have a light at the end of my driveway. It just happens to be on the County road. Just being able to see my driveway makes it easier for people coming in and out. I don't know why we can't look at the idea of having lighting installed, at least at the end of that

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road by the builder to at least light up that area to kind of give people a heads up that there might be a lot more traffic coming in and out of there.

My other question is --

MR. DONNELLY: Maybe I --

MS. PETRILLO: -- coming from Fostertown -- oh, you want to comment on that first?

MR. DONNELLY: I said maybe I misspoke before. I thought there was a requirement that a single light bulb be put at an intersection of a new road under the Town regulations.

MR. HINES: No.

MR. DONNELLY: Then again, it's up to the Town Board. I was mistaken. I had said before --

MS. PETRILLO: That's why I was saying I don't know why --

MR. DONNELLY: I was wrong.

MS. PETRILLO: -- the Planning Board, when there is something like this -- that's a lot of homes. We're not talking a 5-lot development here. We're talking 54 homes, or 52. I mean

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that's a lot of homes. That's a lot of traffic. You figure 2 cars per household. You're talking -- you're increasing -- I don't know if you've done any type of studies, traffic studies, with how much this is going to impact those roads. I live on Fostertown Road now. It takes me almost ten minutes to get out of my driveway to make a left-hand turn now, to get out of my driveway in the morning when I go to work, especially now that school is back in session.

I was also going to address that Fostertown -- is there also an entrance coming off of Fostertown Road?

MR. PITINGARO: Yes, there is. Right here.

MS. PETRILLO: That's at the top of the hill across from 314?

MR. PITINGARO: I don't believe it's across from another road. It looks like it's across from another driveway.

MS. PETRILLO: It's 314 Fostertown Road. I'm below that. I'm just saying if you've traveled Fostertown Road, another major safety issue, anybody coming up and over that hill,

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especially in the winter, I've lived there, like I said, 26 years, I can count on two, three, four accidents at least in the winter at the top of that hill because it is a blind spot as you come up and over. If there's traffic now crossing there as well, I'm just very concerned about the safety. Also the traffic studies. I mean I just can't see how we can handle that many houses.

I didn't come to the previous meetings. I guess there were some years prior. I don't know where I was. When I got this letter I was just concerned with that many homes going in and all the safety issues as far as traffic and the other concerns.

CHAIRMAN EWASUTYN: As Mike Donnelly had said earlier Iris, there was a traffic study that took into consideration this project and other projects in the area. There was a proposed project on Brewer Road that has never come to -- there were two projects on Brewer Road that never came to light. There was one across from Frozen Ridge Road and Fostertown Road that never came to light. Overall the traffic impact study that was done had taken into consideration many, many more

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lots, and it was deemed to be satisfactory the way it's been designed.

MS. PETRILLO: Okay. Let me get this straight. So they don't do another traffic study now, --

CHAIRMAN EWASUTYN: These many lots --

MS. PETRILLO: -- four or five years later?

CHAIRMAN EWASUTYN: These many lots were in fact taken into consideration with that study, and other additional lots for approximately another 100 homes that those developments have since come and gone.

MS. PETRILLO: Okay.

MR. GALLI: Would the developer be willing to put a light at the intersection?

MR. PITINGARO: I can't speak for him. I would like to also caution people about just installing lights along rural roads. I mean one of the worst things I've seen is flashing indicators and such that indicate a curved road, and after they go in they're flashing all night and it really disturbs the rural character of the road.

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MR. GALLI: It's not flashing. It's a light pole with a light.

MR. PITINGARO: I'm saying in general, those kind of conditions.

MR. DONNELLY: One of the issues is who pays for it.

MR. PITINGARO: And the ongoing illumination of the light. I mean the upfront cost of the light is minimal, but, you know, it needs to be --

MS. PETRILLO: Am I still speaking? I didn't give up my spot. I can still speak?

CHAIRMAN EWASUTYN: Well they're responding to your question.

MS. PETRILLO: Right. So can I respond back then?

CHAIRMAN EWASUTYN: You can. I don't know if we're going to debate back and forth.

MS. PETRILLO: I wasn't debating. This is all new to me.

CHAIRMAN EWASUTYN: What Mr. Galli proposed was if the applicant wanted to put in a light. Mr. Donnelly is saying who's going to pay for the cost of operating a light. We're in a

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point of discussion. Iris, what did you want to say?

MS. PETRILLO: My point of discussion with this is that I would think it should be spread throughout the 52 new homes that are going in because it's -- it's because of them that we need the light. So I feel that, you know, if the builder is going to put in 52 new homes and, you know, there's a question about who is going to pay for the lighting to put a road into an intersection, into a dangerous small Town road as well as a large County road at a very dangerous point, both entrances to me seem like they're placed in such poor areas, why can't they pick up the lighting cost?

CHAIRMAN EWASUTYN: Iris, why wouldn't all the residents of that area want to petition the Town to have a lighting district where everyone pays their fair share?

MS. PETRILLO: Because I'm thinking you want the whole road lit up or do you want just where --

CHAIRMAN EWASUTYN: I'm asking you. From what I understand, there's no lighting along

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that road.

MS. PETRILLO: Right.

CHAIRMAN EWASUTYN: For safety reasons I thought I understood you to say there should be lights along that road.

MS. PETRILLO: At least where that intersection is coming out. That's what I had said.

CHAIRMAN EWASUTYN: I guess it's up to the applicant as to whether or not he wants to put in a light.

MS. PETRILLO: Right. That's what I thought were were discussing. Yes. Right? To see if maybe he would be thinking about perhaps putting some type of light there. I'm not saying to light up all of Wells Road. All of Wells Road is dark, but that's another issue. I'm just saying for this -- as far as this new plan.

CHAIRMAN EWASUTYN: And that's something that he has the option to consider with the owner of the property.

MS. PETRILLO: Yes. I just wanted the Planning Board to take that into consideration as well as safety issues. I think then I will be

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done.

MR. PITINGARO: If I could make a couple comments. We're evaluating 52 lots here, but I would like to remind people that not all 52 lots will be ingressing through here. We have 2 that egress through here. Several, depending on your direction of travel, will egress through Fostertown. 3 lots egress directly onto Wells Road further down. I know that doesn't completely minimize what we're doing here but I'm just saying the traffic will be spread out. This intersection is the one of concern but it will be distributed throughout these areas.

CHAIRMAN EWASUTYN: Trisha, before I do, I'll ask if there's anyone else in the audience who would like to speak, please give your name. Ma'am.

MS. CASSIDY: My name is Sue Cassidy, I live at 43 Adonna Drive, next door to Trish. I would like you to point out, where is Adonna Drive on this map?

MR. PITINGARO: From speaking with your neighbor here, I believe it is in this area. Okay.

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MS. CASSIDY: And do I understand this project is already approved?

CHAIRMAN EWASUTYN: Mike Donnelly.

MR. DONNELLY: Yes. It was approved for 55 lots in 2005.

MS. CASSIDY: And what is the size? I know you said 4,000 square feet, or 5,000. In terms of acreage, how much is each lot?

MR. PITINGARO: The smallest lot is about 16,000 square feet, which would be about a third of an acre. A little bit more maybe, a little bit less. Those are the very smallest lots. Many of the lots are half acre or larger. What we were talking about was 5,000 square foot was buildable area that fits within the bounds of the lot.

MS. CASSIDY: Okay. My property abuts the -- this property is directly behind me. I'd just like to go on record saying I'm just totally opposed to the entire project. The enormity of it, the impact on the traffic, the quality part of your life, the environment, it's huge. For that spot it's -- it's not in character with, you know, what else is going on in the neighborhood.

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It's just -- to me it's an atrocity. I'm just opposed on all those levels. What's the impact on the schools in the area? What's the impact on the environment? What about the quality of life? The environment? Air pollution? Just all of that. You know, if there were 5 homes going in, maybe okay. 54 homes in that little area --

MR. PITINGARO: 52. We are approved for 54. We reduced it to 52, just for clarification.

MS. CASSIDY: I really hope it doesn't go through. I think it's just totally out of character and just not a good idea for our Town.

CHAIRMAN EWASUTYN: Okay. Additional comments from the public? If there's anyone else. The gentleman in the back.

MR. SOREN: My name is Michael Soren, I live at 314 Fostertown Road. I'm a new member of the community. I'm also concerned about this new development. I'm worried about the traffic on Fostertown Road. I also think it will change the character of the community. I particularly moved into this neighborhood because of the serenity in the area and I'm concerned that this will change

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that.

CHAIRMAN EWASUTYN: Thank you.

Is there anyone in the audience who would like to speak that hasn't had an opportunity to speak?

MS. LICHWICK: Joe Lichwick, I reside at 93 Wells road.

CHAIRMAN EWASUTYN: Your name?

MR. LICHWICK: Joe Lichwick,
L-I-C-H-W-I-C-K.

CHAIRMAN EWASUTYN: Thank you.

MR. LICHWICK: You spoke earlier about the runoff and the drainage. So now the runoff is going to go across the street to the other side of Wells? I've only lived there about four years now. It floods quite a bit to where out to 32 is totally flooded. I understand you got approval from the DEC to do that, but what implications now with the flooding in that area are we looking at?

CHAIRMAN EWASUTYN: Pat Hines.

MR. HINES: The project itself has a no net increase in stormwater runoff. It has a series of stormwater management ponds that are

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going to be constructed within the facility that will meter the stormwater out over time, and those will then discharge across the street into that large wetland area. The size of the drainage area for that wetland is very, very large when compared to the size of the project. You're all aware of the storm events we've been having. This project will contribute no more after the development, because of the required stormwater management facilities that are put in, than it does now, and will probably even be reduced because of the installation of the stormwater ponds and the other practices that are now required.

MR. LICHWICK: Okay. My only other comment is, like everybody else is saying here, I mean people speed through that road, on Wells. If I knew there was that much traffic on that road, I probably wouldn't have bought my house. Now we're looking at increasing it again. I know it's not up to this guy to provide safety and security for Wells Road but I think it's something the Town should look at.

CHAIRMAN EWASUTYN: Thank you.

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Is there anyone else in the audience who hasn't had an opportunity to speak?

(No response.)

CHAIRMAN EWASUTYN: Trisha.

MS. INGRAM: I would just like to comment also about you mentioned the intersection of Frozen Ridge and Fostertown. There is a development across the street now there. It's approximately I think maybe 10 houses. There's been several deaths at that intersection because it comes off that blind hill on the other side.

I did have another comment for Wells. I can't remember it. The school buses that go through -- I can't think of it. I lost it when I couldn't speak at that moment. I just want to bring up that that is just a small example of -- I know what it is. He commented about all the residents not using that entrance to Wells Road, which in fact I think probably is incorrect because Price Chopper and all the community stores are via Wells Road. They will not go down to 9W because 9W in itself is a traffic nightmare. So honestly, Wells Road is going to be the main road for daily life, shall we say.

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CHAIRMAN EWASUTYN: Thank you.

MR. HENDERSON: Is this in the Town sewage district?

MR. PITINGARO: Yes, it is.

MR. HENDERSON: That can be hooked up into there now?

MR. PITINGARO: We received -- should I -- we received permission to hook up to the sewer. This subdivision has been going on since 2000, so we've received permission and allocation from the Town sewer district to discharge to the City of Newburgh sewer plant previously, and we would only be reducing flow, although minimally, when we reduced the lots by 2. We do have approved capacity there. Reserved capacity for this subdivision.

CHAIRMAN EWASUTYN: Pat, would you explain to Mr. Henderson how that works?

MR. HINES: A portion of the project lies within the existing sewer district. They've gone to the Town Board and got outside user status, a decade ago now probably, for the balance of the parcel. The Town has an agreement to treat sewage with the City of Newburgh, and

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the City of Newburgh and the Town jointly tally the quantity of flow. The applicant, through the Town Board and the Town engineer's office, petitioned the City of Newburgh for an allocation of that 2,000,000 gallons of sewage that is currently allotted to the Town. Those approvals are in place. They paid, as an outside user, a rather substantial fee for the ability to do that with the Town Board. So the project is going to be tributary to the Town's collection and conveyance system. Those happened well in the past but they're still valid.

CHAIRMAN EWASUTYN: Additional comments from the public? Ms. Cassidy, is it?

MS. CASSIDY: Yes. The education study, what is the impact on the local school?

CHAIRMAN EWASUTYN: We don't -- we're not required to do an educational impact study. The Town -- the school district has their own independent study.

MR. GALLI: I think the last project we did was --

CHAIRMAN EWASUTYN: Orchard Hills.

MR. GALLI: -- Orchard Hills or

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Conifer. It was one of those projects. Actually, the school district had a decrease in enrollment, and they're having a decrease every year. They had another decrease this year in enrollment. As far as the impact of adding more kids to the school, we don't know what impact it's going to have since enrollments are going down.

The projects we just approved in Orchard Hills on 9W, which is actually Marlboro School District, so far they've had 28 kids approved for the school and so far 3 have actually gone to school in the Marlboro School District. That's a pretty good size project up there on 9W.

MR. DONNELLY: The district is well aware of the project, and has been since 2005. There's correspondence that goes back and forth to keep them abreast of those developments so they can plan.

MS. CASSIDY: I have one other question. How does this impact somebody with a private well? How does the water -- all that water that's going to be used now.

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MR. PITINGARO: Well the water will be supplied via, I think it's through the Town or the City of Newburgh.

MR. HINES: That's the Town of Newburgh.

MR. PITINGARO: The Town water supply. It won't affect groundwater in the area. As far as reducing groundwater in the area, we won't be drawing groundwater from the area. We'll have water, what is typically termed like city water, a water service.

MR. HINES: The Town's water supply comes from the New York City aqueduct and the Chadwick Lake system.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: One question. Everybody keeps talking about the curve with the wall, the rock wall. Where is that located on your project?

MR. PITINGARO: I believe they must be referring to this area right here. That is the area of the proposed sight easement. There is a rock retaining wall shown there as well.

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MR. WARD: Is it possible to have it removed?

MR. PITINGARO: To have the rock retaining wall removed?

MR. HINES: It's being graded back.

MR. WARD: That's what I'm asking, for visual affect.

MR. PITINGARO: Yes. Actually, that's what's going on here, and that's what's shown in this hatching here. This area is reserved for sight easement and will be graded back and provide additional sight in that area, sight distance.

MR. WARD: That will help.

MR. PITINGARO: Yes.

MR. WARD: Another thing. Are you having lighting on the streets for your housing?

MR. PITINGARO: I don't believe we have a lighting district proposed for this development.

MR. HINES: It is not proposed on these plans.

MR. WARD: I'm recommending to have some type of light at each entrance, Fostertown

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and Wells, because one way or another you have to see the entrance. Any development I go into, they have some type of light, whether it's a picture of you advertising your lots or whatever. Something so they see it. That will help traffic going in and out a little bit.

MR. PITINGARO: Okay. We can consider that. We'll have to look at what utility poles are available in the area and service. I guess it will need to be discussed with the Town Board as far as a lighting district. It's something we can consider. I'll discuss it with the applicant.

MR. WARD: Another thing. You're talking about the school district. Have you considered anywhere with the school buses picking up children on Wells Road, or wherever bus stops might be?

CHAIRMAN EWASUTYN: John, this is a Town road where they would actually be driving right by the homes.

MR. WARD: They'll be going by the homes. All right.

MR. PITINGARO: I think those things

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are kind of reconfigured every year depending on demand.

MR. WARD: Thank you.

MR. PITINGARO: Sure.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I think maybe just one thing we should do if this development ever gets off the ground.

MR. PITINGARO: Okay.

MR. FOGARTY: Is that we do a revised traffic study. It's been awhile since we had one. There's been -- obviously the Town has grown since the last time we had a traffic study done. If it gets to that point where we're actually looking at developing this piece of property, that we have a revised traffic study.

MR. DONNELLY: This is the point, when you approve it. I don't know if there's any way to call it back once it's approved.

CHAIRMAN EWASUTYN: It's already approved.

MR. FOGARTY: We can't up the --

MR. PITINGARO: We have approval already with the traffic study. As we've

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discussed tonight, the actual overall development -- traffic studies, when they're done, usually take into account ultimate development in the area and those figures. Actually, like we discussed tonight, many of the subdivisions that were probably approved or near approval have since either been rescinded or are not going to go forward. I would think that even if we did order a new traffic study, it would show that the traffic counts are acceptable and most likely reduced from where they were before.

CHAIRMAN EWASUTYN: And those always took into consideration a 2 percent growth factor. I mean we're not even -- you know, we're not even at a quarter of the growth.

MR. HINES: You've actually lost projects in the general area here that haven't come to fruition that would have been included.

MR. FOGARTY: That was included in the original traffic study?

MR. HINES: Many projects have not come that were approved.

CHAIRMAN EWASUTYN: Greg Shaw, as a matter of fact, who was just before us, had a

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project on Brewer Road that was 57 lots. There was the LMT subdivision which was 42 lots. There was in excess of probably 100 and some odd lots in that area that, based upon market conditions, have since collapsed.

MR. HINES: The only issue the traffic study revealed here was the Fostertown/9W issue. It's a Town wide issue, not associated with any one project. That was certainly identified as an issue, but that's an intersection of a State and County road.

MR. FOGARTY: All right.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

MR. GALLI: They were all answered.

CHAIRMAN EWASUTYN: Additional comments from the public?

MR. D'ANGELO: My name is Joe D'Angelo, 40 Adonna Drive, D-'-A-N-G-E-L-O. I just have a question on the retention pond. I see you've got

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three of them in there. Number 3, now Mr. Hines, is that going to be a spillway or is it going to be controlled by a weir?

MR. HINES: They're going to control it by outlet control structures with low flow orifices designed for various storm events.

MR. D'ANGELO: So there's going to be some retention in the pond?

MR. HINES: There are wet ponds. There will always be water in them. Smaller storm events will go through a low flow orifice and they're designed for the 2, 10 and 100 year storm events. They have to pass the 100 year storm event.

MR. D'ANGELO: So pond 1 goes to pond 2 and 2 to 1?

MR. PITINGARO: 2 goes to 3.

MR. D'ANGELO: Which is the one that's up on Fostertown?

MR. PITINGARO: That will be 1 I believe. This is labeled 2 and 3 here.

MR. HINES: One functions independent and the other two are in series.

MR. D'ANGELO: Right. So the one

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that's up on Fostertown is the surface, puts it in the culvert alongside of Fostertown?

MR. HINES: Correct.

MR. PITINGARO: Yes.

MR. D'ANGELO: Okay. So that means it goes down along the shoulder of the road and has to cross under Wells to get to the wetlands?

MR. HINES: Correct.

MR. D'ANGELO: Is there any upgrade that's going to be done there?

MR. HINES: Not downstream of this. That pond has been designed to throttle the stormwater to below pre-development rates. The County also reviewed that report before they issued the driveway permit.

MR. D'ANGELO: Are they enclosed ponds? Are they going to be fenced?

MR. HINES: They're fenced and there's a drainage district proposed, so they'll be owned by the drainage district. The Town will maintain those ponds with the cost of that maintenance being attributed to the original 54, now 52 lots.

MR. D'ANGELO: All right. So the remainder of the water is just going to be

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evaporation and absorption then, correct, --

MR. HINES: Yes.

MR. D'ANGELO: -- from the spill point?

Thank you.

MS. CASSIDY: How much of a buffer will there be between the edge of my property on Adonna and the beginning of these properties?

MR. PITINGARO: I believe you're referring to these properties. I would suggest that the area that will be cleared for the homes will be pretty minimal. As much as you don't want to see these homes here, these homes will be offered for sale, or these lots will be offered for sale, and minimizing their view shed onto your lot will be a point of sale for them as well. So minimizing the impact and the disturbance to the lot would be optimal for the seller/developer as well. I would say that a maintained area of a minimum of -- the rear setback is 40 feet. I would say minimally there will be 40 feet of buffer in that area to the property line, and then whatever buffer you have on your lot as well.

MS. CASSIDY: I don't see how you can

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leave much vegetation when you're squishing 54
homes. It seems a little impossible to me.

I have one other issue. Let me think
about it. Come back to me.

MR. INGRAM: Tim Ingram, 37 Adonna
Drive. My question is how is it -- is everything
going to be stripped and the houses built waiting
for people to buy them or -- I mean, if not we're
going to have these empty houses sitting there
waiting for people to come in. As everybody
knows, the economy sucks right now. Excuse me.
It's not good right now. Or are they just going
to wait for people to come in and do it?

CHAIRMAN EWASUTYN: Do you want to
answer that question?

MR. PITINGARO: Sure. The development
would be phased. Phasing is usually left up to
the developer. I would suggest that a developer
who has a 52-lot subdivision will not go ahead
and build all the lots at once. He'll probably
build a model home and then sell lots and develop
the lots individually as they go along. It
wouldn't be prudent for him to come in, like you
guys were saying, clear out the land. First of

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all, he's not permitted to do that by DEC regulations, Town regulations. You're not allowed to come in and wipe out the area. I don't believe it would make any financial sense for him to come and build homes that he wasn't able to sell.

MR. INGRAM: That makes sense.

MR. PITINGARO: I believe he'll probably most likely build one or two model representative of the houses that will be there, and then as the lots are sold build the houses as they move along. A project of this size could take some time to reach full capacity.

MR. INGRAM: Just as you're talking about building the houses, what size of houses are we talking about? 2,000 square feet, 10,000?

MR. PITINGARO: No. The houses shown are I think most likely in the range of like 2,400 to 2,800 square foot.

MR. HENDERSON: You said 2,400 to 2,800 square feet on a third of an acre?

MR. PITINGARO: It's a two-story dwelling. That would be about 1,000 to 1,200 square foot footprint.

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CHAIRMAN EWASUTYN: Sir.

MR. SOREN: Can you describe what the frontage on Fostertown Road will be?

MR. PITINGARO: The frontage on Fostertown Road. What do you mean by the frontage on Fostertown Road?

MR. SOREN: What will it appear as you're going down the road? Will there be trees, will there be flatland?

MR. PITINGARO: There will only be one home that is along Fostertown Road. One lot that will be developed. The other side of the road will be a stormwater basin, which will look quite natural when it's completed, and there will be one home, which you'd be looking at the side of it. I would assume that there will be quite a bit of vegetation, like we were saying, for that lot to be viable for sale left along that side there.

MR. SOREN: Thank you.

CHAIRMAN EWASUTYN: Final comments from our consultants. Jerry Canfield, Code Compliance?

MR. CANFIELD: I have one concern. I

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don't remember if the original project was proposed and approved as a phased project.

MR. DONNELLY: It was not.

MR. CANFIELD: If I'm hearing tonight, we're proposing phasing.

MR. PITINGARO: By phasing I mean DEC acres and disturbance phasing of it.

MR. DONNELLY: Construction sequencing.

MR. PITINGARO: Yes.

MR. CANFIELD: Okay. If that's the intention, then we will need to see start and finish phase lines.

MR. PITINGARO: Okay. Well, the project will need to have phase lines as far as 5 acres of disturbance permitted at any one time. That's what we're referring to.

MR. HINES: We can work -- the issue with phase lines is at what point do you get a building permit, how much construction is done.

MR. PITINGARO: That refers more to if the project is phased as far as bonding and what not, not as far as --

MR. HINES: Correct.

MR. PITINGARO: -- erosion and sediment

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control.

MR. HINES: Correct. If your client intends to bond 100 percent of these improvements, then it's probably not an issue. The other issue is that the grading on the site kind of hinges on each lot, so it's going -- there's no clearly defined phase on this because of the amount of grading for the municipal improvements. So what we're trying to say is if in fact you are going to phase it for bonding, let's do it now rather than have your client come back three months from now and have to go through another Planning Board series of meetings in order to get a phased approval before your building permit.

MR. DONNELLY: I think the action tonight is preliminary approval, and at the time of final, if you're going to truly phase it and build your public improvements in phases rather than all at once, you'll have to come in with a phasing plan.

MR. PITINGARO: We'll discuss that with the client and see what he determines.

MR. CANFIELD: We need to see

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construction sequencing, phasing, building permits, C of O counts and all of that so the Town has a clear picture of a start and end of a phase, if that's the way it goes.

MR. PITINGARO: Sure.

MR. CANFIELD: Infrastructure, drainage.

MR. HINES: They need to stand alone if a subsequent phase doesn't come along.

MR. CANFIELD: Exactly.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: I had a comment regarding the phasing which we just discussed.

I also took the opportunity during the meeting to look at the frontage along Mr. Henderson's lot. We're going to discuss that also. I think that's going to need a closed pipe drainage system. I did look at where your swale is. That may need to be revised also. That one roadway to Wells Road does discharge along his frontage. That's something we're going to take a look at between now and final approval. That was a good comment. That's all we have.

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CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant?

MR. COCKS: I have no additional
comments.

MR. HINES: We have the comments. All
the outstanding agency approvals need to be
updated from the DEC and County.

CHAIRMAN EWASUTYN: For a matter of
record, what are those agencies?

MR. HINES: The Orange County Health
Department approval for the water system; the DEC
approval for the wetlands, stormwater and
sanitary sewer; the City of Newburgh flow
acceptance letter will have to be revised
deducting the 2 houses and crediting that back to
the Town; the Orange County DPW for the utilities
and access to the County roadway system; the Town
Board for a drainage district; and now there's
potential for a lighting district also.

MR. COCKS: Town Highway for the
driveways.

MR. HINES: Town for the 3 driveways
accessing Wells.

CHAIRMAN EWASUTYN: Additional comments

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from Board Members?

MR. GALLI: No additional.

MR. MENNERICH: Will this have to go back to Orange County Planning?

MR. COCKS: It wouldn't have to go back. You can refer it if you'd like them to see the change, but --

MR. DONNELLY: It never went. I don't think it was required to be referred. Well, it may have been.

MR. HINES: It's a County road so it should have went.

MR. DONNELLY: It wouldn't because of the time period. We had an opt out agreement.

MR. HINES: Okay.

MR. MENNERICH: It would seem like we should submit it now I would think.

MR. DONNELLY: All right.

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

MR. COCKS: That's fine.

CHAIRMAN EWASUTYN: I'll make a motion to refer it to the Orange County Planning Department.

MR. WARD: So moved.

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MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Any further questions from the public?

MR. HENDERSON: I have one question.

When they start -- do they have to build these ponds before they start developing?

MR. HINES: Yes. That will be part of the phasing plan. There's two forms of phasing, one is the construction phasing, that has to do with that; and then the phasing of the actual what improvements are going to go in before a building permit can be issued and before a CO can be issued.

MR. HENDERSON: I'm just worried about

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that runoff.

MR. HINES: Step one would be clearing vegetation and the next step is to get those stormwater management facilities in.

CHAIRMAN EWASUTYN: Thank you, Mr. Henderson.

I'll move for a motion from the Board to close the public hearing on the 52-lot residential subdivision for Elm Farm.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Tom Fogarty. Is there any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So

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carried.

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

MR. DONNELLY: I don't think we can. I think we did -- I'm sorry. We do have to redo the negative declaration, but we can't take action now if you're going to send it to the Orange County Planning Department until they render a report.

MR. MENNERICH: I thought we were going to be doing preliminary approval.

MR. DONNELLY: You can't take any action. You have no jurisdiction to act, if the County is required to be notified, until they've either responded or thirty days has gone by. If you're taking the position it has to be referred, then you can't take action. You can reaffirm the negative declaration.

MR. PITINGARO: If I could make a comment. We did receive Orange County subdivision approval, and we have received Orange County DPW approval.

MR. DONNELLY: That's not planning.

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MR. PITINGARO: I understand. The County has had adequate opportunity to review the project.

MR. HINES: It's not the same agency.

MR. PITINGARO: No.

MR. MENNERICH: Times have changed and since we -- the project is before us again, I think we should be sending it to Orange County Planning.

CHAIRMAN EWASUTYN: Okay. I'll poll the Board Members one more time. Frank Galli?

MR. GALLI: It's thirty days. I mean by the time he sets up, checks with his client about some other issues and stuff. I don't have a problem with that. I think we should send it.

MR. BROWNE: Agreed.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.

MR. FOGARTY: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: So the action before us tonight, Mike, is to reaffirm our negative declaration?

MR. DONNELLY: You can do that, yes.

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CHAIRMAN EWASUTYN: I'll move for a motion from the Board to confirm our negative declaration for the 52-lot subdivision for Elm Farm.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Will you see that Bryant Cocks gets a set of plans, and he'll forward that on to the Orange County Planning Department?

MR. PITINGARO: Certainly. Thank you.

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CHAIRMAN EWASUTYN: Thank all for attending.

(Time noted: 8:26 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: September 10, 2012

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

----- X
In the Matter of

U-HAUL
(2000-59)

Potential Amendments to
Conditional Site Plan Approval

----- X

BOARD BUSINESS

Date: September 6, 2012
Time: 8:27 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DAVID POLLOCK

----- X

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

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MR. PROFACI: We have one item of Board business tonight. It's a discussion on U-Haul. The applicant would like to discuss potential amendments to the conditional site plan approval in regards to architectural features being constructed before a certificate of occupancy can be granted by the building department.

CHAIRMAN EWASUTYN: Jerry, are you aware of this? Is there anything you want to start out with?

MR. CANFIELD: Yeah. I think the driving force that brings this applicant here tonight is, if you remember, when we approved, or the Board Planning Board approved the project, there were a series of conditions imposed. There was the construction of the new facility in addition to some facade work to the existing facilities. The new building is probably 99 9/10 complete. The facade work on the existing buildings is like 70 or 80 percent complete. The one area not being completed is the area that the existing U-Haul office is in.

One of the conditions from the original approval was that a building certificate of

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occupancy can not be issued for the new structure until such time that the existing facades were completed. That is an issue for the applicant, and I'm sure they will explain to you tonight. They contend that they can not move the applicant -- move the existing office occupancy into the new building without a C of O, which is correct. However, they can not do the facade work with the office occupancy there. So I think they're going to petition this Board to supposedly grant some type of relief to that condition.

I feel that it may be able to be done as a field change if the Board wishes -- chooses to do so. That's the one issue that I'm aware of.

I don't know -- I believe they're going to come back at a future date because they have other issues with the site that is different than from originally proposed.

We did see their narrative that was submitted to the Board, although I did not see any plans. Karen Arent had noticed, and our inspectors on inspections, that there is an area of increased parking that's been added. I

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believe they have a need for that. I think they will explain to you tonight what that is.

The other change I expect will be is what to use the existing office from the existing building for. I'm not clear on what that will be, though, or what their proposed -- they're proposing for that.

CHAIRMAN EWASUTYN: David Pollock, if you'd like to make your presentation.

MR. POLLOCK: Thank you very much. Would you like me to stand?

CHAIRMAN EWASUTYN: I think it would be more polite to stand.

MR. POLLOCK: David Pollock, 2727 North Central Avenue, Phoenix, Arizona. I'm the owner representative for U-Haul, and I'm excited to be back. Our project is finally coming to a conclusion.

Yes, there are a series of items that we are going to be needing to deal with in the next couple -- I'd say next couple of months. Tonight I'm here because in the resolution there are two items that I'm going to ask the Board to consider changing. One of the items is on the

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nature of the application. Our building, and our project, and our approvals, and our plans were all approved for a three-story building. It does state a two-story building. We would ask that that could be modified to reflect really what was approved.

And then the other item, which does have some impact, business impact, is resolution number 5 which, as Jerry stated, we are required to complete the facades in order to get a certificate of occupancy. Currently there is a building permit for the new building, there is a building permit -- a separate building permit for the facades, and then we have a site plan permit for the whole entire site. We see the project being 99.999 percent complete on the new facility. All landscaping is in, all stormwater management is complete, the building is complete, access is done, DOT has signed off. We are real comfortable with that. We had asked Jerry if there was a mechanism in place for a temporary occupancy permit for our new building and why is that. Well, back when we submitted our plans, which included the remodel for the facades, we --

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again, shame on us for not thinking that the impact or the timing to be able to move the office into the new building and the sequence of time was going to -- was not going to be two or three weeks. In order for us to open business or keep business running we have to shut down and do the renovation to the existing offices that are there. It's probably going to take about two-and-a-half more weeks to finish the -- I have our contractor from Hudson River here, general contractor, and it will probably take about two plus weeks to finish that work. For us to close business for two-and-a-half weeks really is not viable for us. We know that we're going to be shut down probably for two to four hours when we move people over to do what has to be done. To us, we can accept that.

So we're seeking the Board to see if there's a way we can get resolution 5 to allow us -- I mean our permits are done for that building to allow us to get a certificate of occupancy for the new building construction as we finish the existing. Our bonds are all still in place. We are going to be coming back because of some

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access control, and parking issues, and circulation issues based on the existing buildings that we're having some issues with that we're seeking your help. Tonight I'm only here to see if we can get our occupancy permit.

CHAIRMAN EWASUTYN: Your recommendation to the Town Planning Board?

MR. CANFIELD: I don't think this is an unreasonable request. I think perhaps if we were to maybe reword condition number 5 to put some requirements and restrictions on it, perhaps that the facade work should be completed within thirty days of the occupancy of the new building.

MR. DONNELLY: What did we do with the bank that wanted to leave the existing building in operation while the new bank was being built and they had to do something within so many -- they were in the same predicament.

MR. HINES: They had a trailer.

MR. DONNELLY: What did we do then?

MR. CANFIELD: We limited, I think it was ninety days.

MR. DONNELLY: They had ninety days after issuance of the certificate of occupancy to

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shut it down?

MR. CANFIELD: The temporary facility had to be removed. In this case it's not a lot of work. What Mr. Pollock indicated, it will only be a couple weeks, if that. So I think if we allow thirty days, that's more than enough.

CHAIRMAN EWASUTYN: Are you satisfied with that --

MR. POLLOCK: Yes, sir.

CHAIRMAN EWASUTYN: -- time?

MR. POLLOCK: The only statement I would make is in order to close out the site plan permit, I need to get back on the agenda regarding the modifications that are current, because there are a couple changes that have been impacted based on the renovation and the site circulation. So yeah, I would like to try to get back on the agenda as soon as possible. I guess I'll need to file an official application for that. We could do that in the timeframe. You know, the two to three weeks. I don't know if I can get back --

CHAIRMAN EWASUTYN: What I've learned from experience, and I'm experiencing this week,

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when you're ready to submit, you'll send me an e-mail --

MR. POLLOCK: Got it.

CHAIRMAN EWASUTYN: -- like you did the other night. I respond to you that same night. We'll discuss when to come in, what's necessary, and then we'll begin discussing scheduling. What I've learned from experience, don't base everything on when someone thinks they're going to have it. In fact David, with all due respect, it never comes together that way.

MR. POLLOCK: That's fair, sir.

CHAIRMAN EWASUTYN: Have I always returned your call?

MR. POLLOCK: Yes, you have, sir.

CHAIRMAN EWASUTYN: When you're ready, call and send an e-mail.

Let's take the action before us now.

MR. DONNELLY: It's an amended resolution. There two things, one is, and I assume this is correct, I had said it was a two-story building and it's a three-story building. Condition number 5 will be amended in terms of it's last sentence that says that the

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applicant shall complete the architectural facades of all buildings as shown on the plans within thirty days after issuance of a certificate of occupancy for the new building.

MR. GALLI: I just have a question if I can, John.

CHAIRMAN EWASUTYN: Please.

MR. GALLI: The old office that you're moving out of, what are you going to do with the old office?

MR. POLLOCK: The old office right now will probably become an extension of the storage facility.

MR. GALLI: Okay. You're not going to rent it out to somebody?

MR. POLLOCK: There was discussions and we think the liability might be too much to do that right now.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Additional comments?

MR. BROWNE: The original reason that we set it up the way it's currently set up was to ensure that all those facades and what not came

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up to what was being discussed at that point in time. We make this change, what is the assurance after the thirty days, what happens at that point?

MR. CANFIELD: I always have the ability to revoke the certificate of occupancy.

MR. DONNELLY: We'll continue to hold the bonding money until it's done.

MR. CANFIELD: Yes.

MR. BROWNE: Can that also be stated in the resolution, Mike. If it hasn't been done in thirty days, the CO would be rescinded, blah, blah, blah?

MR. DONNELLY: I don't think we should dictate to Jerry what he's going to do, or the Town Board. They have their jurisdiction to handle enforcement any way they see fit.

MR. CANFIELD: That's implied. I mean it's written in the municipal code. It's an unwritten rule but it's there. It's enforceable. At that point it then becomes an enforcement action type thing which then my department would be responsible for enforcing it. So it would no longer be a Planning Board issue at that point.

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MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: No comments?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: Jerry, are there any safety issues as far as we're going to be allowing the public onto a piece of property that's under construction and --

MR. HINES: They're there now.

MR. FOGARTY: Okay.

MR. CANFIELD: The construction that will continue to go on is to the most southern end building. It's not an issue. It's not an issue at all. All the life safety items and everything in the building. We have another final inspection scheduled tomorrow morning, I believe it's at 10 a.m. We've already done a preliminary. All the life safety issues and everything, site accessibility, it's all been complete. Like I said, it's like 99.9 complete.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: One more time,

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Mike. Do you want to give us the amended resolution changes?

MR. DONNELLY: There's two. One is in the introductory paragraph of the original resolution. It said the approval was for a two-story building. That will be changed to a three-story building.

The present condition number 5, which is actually going to move up because I deleted the sign-off letters that were earlier required, we will amend the last sentence to read "The applicant shall complete the architectural facades of all buildings as shown on the plans within thirty days after issuance of a certificate of occupancy for the new building."

CHAIRMAN EWASUTYN: Is everyone satisfied with that?

(No response.)

CHAIRMAN EWASUTYN: Then I would move for a motion to grant that change.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

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discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you.

MR. POLLOCK: Thank you very much.

CHAIRMAN EWASUTYN: I'll move for a
motion that we close the Planning Board meeting
of the 6th of September.

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.

MR. BROWNE: Aye.

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MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:40 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: September 28, 2012