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

----- X

In the Matter of

THE POLO CLUB
(2006-09)

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

----- X

SITE PLAN

Date: September 4, 2008
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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THE POLO CLUB

CHAIRMAN EWASUTYN: I'd like to thank everyone for coming this evening. Tonight is the night of the 4th of September and the Planning Board is holding a meeting.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Myself present.

The Town of Newburgh Planning Board and the Town of Newburgh residents are represented by a group of professionals who make -- who help the Planning Board in making SEQRA determinations. I ask that they introduce themselves.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Fire Inspector, Town of Newburgh.

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

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THE POLO CLUB

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MR. COCKS: Bryant Cocks, Garling Associates.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

CHAIRMAN EWASUTYN: Thank you. At this time I'd like to turn the meeting over to Ken Mennerich.

(Pledge of Allegiance.)

MR. MENNERICH: Please turn off all cell phones and pagers.

MR. BROWNE: The first item of business tonight is The Polo Club represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties. I'm here this evening representing The Polo Club. The project is on Route 300 about a half mile north of Town Hall here.

The project was last before the Board on August 7th regarding the SEQRA Findings Statement which was adopted at that meeting at which time this meeting was scheduled to review

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THE POLO CLUB

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the application for preliminary site plan approval. That's it.

CHAIRMAN EWASUTYN: We'll start with comments from our consultants. Jerry Canfield, do you have any outstanding comments at this point?

MR. CANFIELD: Nothing outstanding. We reviewed the revised set of plans submitted on August 18th with respect to the hydrant locations and met Tuesday with the applicant's representative, Rachel Lockwood, an engineer who is here also with Ross. We've asked that they relocate some of the hydrants, which they don't feel there will be any problem with that.

Additionally we asked that the no parking signs be placed where applicable for no parking.

All of the previous comments regarding the road width and apparatus turning radius have been addressed.

CHAIRMAN EWASUTYN: Thank you. Pat Hines, Drainage Consultant?

MR. HINES: Our previous comments have been addressed.

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The plan has evolved to have two detention ponds now. If you'll remember, originally they had seven. We found those to be acceptable.

The applicant's representative has addressed our comments. We've reviewed the draft resolution and included any of the outstanding issues in that for preliminary.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: As Ross mentioned, the Findings Statement of the Environmental Impact Statement was adopted on August 7th, 2008. With that they addressed all of our comments on the site plan. We have nothing further.

CHAIRMAN EWASUTYN: Thank you. Karen Arent, Landscape Architect?

MS. ARENT: The consultants addressed previously issued comments.

Architectural Review Board approval should be granted before final so that the plans can be added to accordingly.

CHAIRMAN EWASUTYN: Thank you. Ken Wersted, Traffic Consultant?

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THE POLO CLUB

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MR. WERSTED: I don't have any additional comments on the proposed plan as it's shown here.

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

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Is it appropriate to bring up the emergency entrance?

CHAIRMAN EWASUTYN: Sure it is.

MR. BROWNE: Our understanding is there's some difficulty in obtaining the access.

MR. WINGLOVITZ: We originally had an agreement which was Finnegan Movers or Hudson Valley Movers was the entity that owned it. They have since sold the building to a company by the name of Blue Water, LLC who is a contractor out of Hackensack, New Jersey who is doing work for the DEP. I've met with their site superintendent and I'm trying to set up a meeting with some people who actually can make a decision regarding this easement. So I did as an alternative, since I couldn't deliver that, showed an alternative easement coming out to 300 that is totally within

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THE POLO CLUB

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our control that would come between this 18 and 22. With the emergency access from 300 into the site we could construct to whatever standards the Town wanted and could control that through easements.

MR. BROWNE: On that alternate proposal, we did discuss that at work session, there's some width requirements on that. You're probably aware of that talking with Jerry.

MR. WINGLOVITZ: Yup.

MR. BROWNE: So that would be -- how can I say -- push for the other one.

MR. WINGLOVITZ: Yup. Absolutely. I'm trying to get a hold of the right person.

MR. BROWNE: That looks like it might be difficult from a practical standpoint because there's additional widths involved and different things.

MR. WINGLOVITZ: Right. Yup. That's not a problem.

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: Jerry, Ken Wersted, the proposed width that we discussed at our work session for the emergency access, I think you're

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showing, is it ten or twelve foot?

MR. WINGLOVITZ: Twelve foot wide right now.

CHAIRMAN EWASUTYN: What would be recommended or suggested, for the record?

MR. CANFIELD: As we discussed in the work session, even though it's an emergency access or a secondary access it still would be classified as an access road. The road width should be a minimum of twenty feet.

MR. WINGLOVITZ: We could accomplish that if we needed to I'm sure.

CHAIRMAN EWASUTYN: Jerry, thank you. Cliff, thank you.

Ken?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing, John.

CHAIRMAN EWASUTYN: Mike Donnelly, I think you have prepared two items you would like to discuss with us this evening. One would be the resolution for the site plan and the other relates to 239-M of the Municipal Law.

MR. DONNELLY: Correct. I've given all

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the Members of the Board a draft copy of the resolution as there always are changes and additions, and I'll review those in a moment.

On page 3 of the resolution there is the language relating to the General Municipal Law referral to the Orange County Planning Department. That needs to be changed because when this was sent to the Orange County Planning Department for a review and report they responded with a rather lengthy letter including ten comments. This was back in August of 2007. At the end of the letter the County said that three of those comments are ones that they're including as conditions of their approval, and that's of great significance to you. Under the General Municipal Law when the County either recommends a disapproval or an approval provided that certain conditions are satisfied, it triggers two things. One is a requirement that any vote that does not -- or any approval that does not incorporate all of the County's conditions and recommendations would need to be by a vote of not the usual majority of the entire Board, meaning four votes, but instead a majority plus one meaning five

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votes.

Now, of the ten comments, as I noted only three were jurisdictional conditional recommendations. Those are conditions 2, 3 and 4. We spent some time in work session going through these and all of the recommendations of condition 2 are satisfied, so there's no issue there.

Condition number 3 was then broken down into letters A through E. A, B and E are fully satisfied. C and D, which related to recommendations of movements of certain roadways, buildings and other structures in relation to the wetlands, and condition D that suggested ways in which some of the units could be redesigned to move them further away from the wetlands have been partially incorporated into the plans, but I think in the abundance of caution it appears that they have not been fully incorporated into the plans, therefore I propose that we include under that GML-239 referral section of the resolution a report that the Planning Board and the applicant attempted to incorporate those recommendations in C and D of item number 3 into the plans to the

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maximum extent possible but could not fully do so and the Planning Board does not believe, if this is the direction your vote goes, that given the balance of pros and cons of accomplishing further relocations, that the recommendation will be complied with, and then we can give that report back to the Planning Department.

Finally, condition number 4, which was the third of the three conditions that were jurisdictional, has in fact been complied with through the incorporation of certain low-impact development techniques into the plans since the time of the review. So assuming that you move forward and take action this evening, I will include that language within this section of the resolution.

This is a resolution of preliminary subdivision -- site plan approval and not final, so on pages 4 and 5 the first six conditions are the requirements that the applicant comply with all outstanding and future comments of the various technical consultants before final approval can be granted.

Number 7 on page 5 is a listing of

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certain of the further plan details that will be required before final approval can be granted. As you know, your ordinance allows you to give a preliminary site plan approval for a complex project, but not all of the plans are fully detailed where it appears appropriate to enable the applicant to go get other agency approvals. Most of these outstanding technical issues relate to Army Corp, DEC and DOT approvals where those plans will be subject to their review, and therefore the details cannot be finalized until that review occurs.

On page 6 I list the other agency approvals that will be required before final approval can be granted, and I won't mention them all but those include the Newburgh Town Board, the town engineer, the water department, the building department, ARB will be reviewed by this Board at the time of final approval, the City of Newburgh flow acceptance, the Department of Health, Environmental Conservation and the DOT.

Our usual condition is number 9 on that page. It requires the applicant to copy the Planning Board on all of its correspondence with

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those agencies during the review of those permits.

On the following page I list some of the other conditions that will need to be satisfied before final approval. Architectural review, the showing of street trees on the plans. There were, as you'll recall from the environmental review requirements, certain improvements at Route 300 and Gardnertown Road that need to quantify the fair share contribution to needed improvements at Route 52 and Route 300, and those will need to be finalized before final approval can be granted.

On page 8 we have a requirement that the various requirements of the SEQRA Findings Statement be incorporated into the plans. I've added between fourteen and fifteen specific references to the requirement that the HOA documents that need to be reviewed by the town attorney and the Town Board that were recited up above need to make specific provision for the refuse collection rules that were discussed within the Findings Statement in order that we ensure that those are within those bylaws.

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Under 15 we have the requirement that there be either a -- that we include -- the various mitigations of the SEQRA Findings be included in the final plans. We have left open the option of the requirement, which I think appears likely, that an on-site inspection will be needed in the early stages of the project at least, and that all of the off-site improvements and the posting of necessary security and the payment of the fair share contribution all be accomplished before final approval.

There will be the requirement of various types of financial security that are listed on pages 8 and 9. Those include a landscape security and inspection fee, a stormwater improvement security and inspection fee.

Pat, I know the water main extension is not a Town one. Is there anything that needs to be inspected there or is there no fee at all?

MR. HINES: I believe the Town does charge a fee for that connection.

MR DONNELLY: So there will just be an inspection fee but not a security?

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THE POLO CLUB

MR. HINES: They also review those improvements because if there's a leak --

MR. DONNELLY: Okay. Sewer main extension, that security inspection fee. I think the Town does the same thing on the private road, there's no security but there is an inspection fee.

MR. HINES: That's correct. Although this is a site plan so that's different than the private.

MR. DONNELLY: Well, that's the question then. Does the Town impose an inspection fee on interior roads?

MR. WINGLOVITZ: Only subdivisions, not for site plan.

MR. DONNELLY: That's what Ross was telling me. I wasn't willing to accept it until I heard from Pat. That will be removed then.

There is a private roadway. I take it, Ross, that the HOA documents will address how it's to be maintained and who will pay for that, therefore we don't need a private roadway easement and maintenance agreement.

Similarly, or similar to the Driscoll

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project that you approved, there's some joint site work that needs to be done and there needs to be a construction phasing plan that's submitted. Conditions 19 and 20 require that that be part of the final approval, and we include at a later time within -- I'm sorry. In 20 we include a note that there will be no certificate of occupancy for any dwelling in this project until all of the joint site work has been completed.

Not included in the resolution but I think what needs to be inserted here, and we discussed the first of these at the work session, was the requirement that the applicant petition the Town Board under the Vehicle and Traffic Law to authorize the Town to enforce Vehicle and Traffic Law violations on the roadway system. I think it seemed from our discussion that the only ones that really need to be enforced here are those that relate to fire lane parking enforcement, and those are enforceable under the Building Code apart from the Vehicle and Traffic Law. So unless the Board feels it's necessary or the applicant wishes to go to the Town Board and

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THE POLO CLUB

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request that, I think our discussion was that we will not impose that requirement at this time.

We had discussed in earlier review, and I left it out and I think it should return here, is the timing of the clubhouse and other recreational facility improvements. I think we had said that the clubhouse needed to be completed and operable when twenty-five percent of the units had received certificates of occupancy and that all other recreational facilities shown on the plan needed to be completed prior -- after thirty-three percent of the total unit count had received certificates of occupancy. If that's where we ended up on that score I'll convert those to unit numbers and include that condition in the resolution, although we can refocus that at the time of final approval.

MR. WINGLOVITZ: Similar to the Findings or the SEQRA documents.

MR. DONNELLY: Am I right on those numbers?

MR. WINGLOVITZ: Yeah. I saw that on the Findings.

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THE POLO CLUB

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MR. DONNELLY: All right. I'll take a look at it.

On page 10, 21 is the requirement of retaining walls of over four feet needing stamped plans and approval.

The emergency access easement that was discussed earlier will either need to be at Hudson Valley Movers property now owned by others, or if that easement cannot be obtained, at another suitable and acceptable location. That will need to be accomplished at the time of final approval.

Offers of dedication, I think there are some lands to be dedicated, will need to be provided.

The requirement that no outdoor fixtures and amenities may be constructed that are not shown on the plans.

Finally, the payment of fees in lieu of parkland for the dwellings of the project.

If in the event other agency approvals impose different or other requirements, they can be dealt with at the time of final approval.

I believe that sets forth the

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conditions we need to include in the resolution.

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

MR. GALLI: No additional, John.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Nothing additional.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: No.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: No.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: No.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: Nothing additional.

CHAIRMAN EWASUTYN: Having heard the conditions for preliminary site plan approval presented by our town attorney -- Planning Board Attorney, Mike Donnelly, I'll move for that

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motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

Ross, while we have you here, you and I discussed earlier this week the access from Driscoll's. Do you want to bring the Planning Board along on that?

MR. WINGLOVITZ: As the Board requested last month that I contact the owners, I went to research the owners again and it's been sold in tax auction this year. It's owned by the County of Orange. So we have contacted John McCarey who

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THE POLO CLUB

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is the head of real estate there about acquiring that sliver of land to provide access to the property. We want it clear that we want to transfer that with the restriction that it's only for pedestrians and utilities and not an access for a road or anything like that.

CHAIRMAN EWASUTYN: And would you bring the Board along on how the Brighton Green site plan is selling and how that's working?

MR. WINGLOVITZ: From everything that we see up there, they've actually been selling pretty well compared to every place else. They are continually building. I think there's 100 units sold at this point. They are two-thirds of the way there. One of the few projects in the area that's selling at the rate they're selling.

MR. BROWNE: What do you attribute that to?

MR. WINGLOVITZ: I don't know. I mean I think it's a nice site plan, it lays out really nice. They did a nice job with the landscaping. It's attractive. The combination of that and it's nice inside. The buildings are nice inside. Nice finished work. A combination of all those

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THE POLO CLUB

things. It turned out nice.

CHAIRMAN EWASUTYN: Thank you.

MR. WINGLOVITZ: Thank you.

(Time noted: 7:20 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 16, 2008

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

----- X
In the Matter of

SHOPPES AT UNION SQUARE
(2007-05)

Route 300 & Orr Avenue
Section 96; Block 1; Lot 6
IB Zone

----- X

SITE PLAN & ARB

Date: September 4, 2008
Time: 7:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: BRIAN WAESNER

----- X

MICHELLE L. CONERO
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Wallkill, New York 12589
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SHOPPES AT UNION SQUARE

MR. BROWNE: The next item of business is the Shoppes at Union Square. Chris Viebrock.

MR. WAESNER: Actually it's Brian Waesner on behalf of Langan Engineering, civil engineer for the project.

On behalf of the client, Goddard Development, we'd like to -- we come to you this evening asking to start the architectural review process and the final conditional site plan approval process.

We have to apologize first off for some internal communication breakdown on our end in not getting the plans and information we were going to present tonight sooner. We understand you haven't had them very long and as such your feedback is preliminary tonight. We thank you for whatever feedback you can get us. We do expect more in the oncoming weeks and workshop if necessary.

If the Board will allow me, I'll just do a brief update as to where the project has been since we last presented to you in April or May. Following our presentation to you in April or May we went to the Zoning Board to get

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variances for the Cosimo's lot, predominantly existing lot coverage and setback variances. We did get approval for those variances in July. In that interim time we also made application to Army Corp and to DEC for the stream crossing permit. To refresh your memory, there's an unnamed tributary that runs down and transects the site.

Since receiving our zoning variance approval we've taken a look at the site plan to address some of the DEC comments that have come up.

Eric Nyler of Tinkelman Architecture has advanced the architectural product of the building, the signage, the building facades, and he'll do a presentation in a few minutes on an overview of those materials.

The plan I have before you up here is the plan that I presented in April or May. It's the same layout as the preliminary approval that you granted earlier for the project. And the second site plan that I'm going to put up, and I'll hold it slightly underneath, is the site plan that we just submitted in anticipation of

1 this meeting. The difference between these two
2 site plans is the elimination of the access road
3 out to Orr Avenue. It was a secondary entrance
4 road/access road that we had anticipated to be
5 predominantly used by trucks servicing the two
6 larger retail facilities on the site. In
7 reviewing the application for the stream
8 crossing, DEC requested modifications to that
9 proposed crossing. That would make that crossing
10 economically unfeasible for the project. It
11 would require a bridge essentially across it as
12 opposed to a pipe culvert when there are other
13 pipe culverts in the stream. Understanding that
14 request, we took a look at the site plan and we
15 reviewed -- re-reviewed the circulation for the
16 site plan for trucks and for vehicles and we
17 confirmed that we believe we can provide adequate
18 circulation around the site without that driveway
19 by enlarging the truck turning area behind the
20 building and eliminating that access out to Orr
21 Avenue. We verified this by running truck
22 movements through the site. That was one of the
23 plans that we submitted, both the fire truck and
24 the loading tractor trailer trucks. We also
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SHOPPES AT UNION SQUARE

ensured that the grading would have no adverse effect on the neighboring property owner and would not contribute to or exacerbate any flooding issues that occur along the stream. To accommodate the movement of trucks we did relocate two parking spaces from the front corner of this parking field to the rear. The overall parking count on the site remains the same as what was previously proposed. The overall building square footage remains as previously proposed.

That in summary is where the site plan is headed. With that I'll turn it over to Eric Nyler who will present the architecture and the signage.

MR. NYLER: I think it might be kind of useful just to briefly go back to some of the first images that we brought here that I think give an overall indication of what the architecture was about. This is a kind of reminder. I know you have the elevations of each of the buildings which were actually generated from the same computer model these renderings were taken from, so there's complete correlation

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between the elevations you're looking at and the first images we brought in.

The beginnings of the project, stylistically we were taking the Cosimo's building as a touch stone. Very interesting building, nicely scaled, has interesting material on it. We kind of spun off of those for the different buildings. Circuit City has a particular corporate identity but we've modified it by adding another layer of architecture on the face of it, on the flanks of their main entry piece that relate back to some of the other motifs that we have on the Vitamin Shoppe building, which was sort of the first building that we started with, which again was sort of a direct relative of the Cosimo's building. Similar materials on all of the buildings.

The retail building that goes next to Circuit City is somewhat differently treated than Circuit City, but again you see these motifs repeat for each building. A mixture of materials of kind of rustic stone. Whether it's this exact product line I can't tell you at this time but it will be a cultured stone veneered with some depth

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to it, two inches or so, some efface, moderate texture in this kind of color range similar to the renderings in the buildings, warmer earth tones, sienna colors, things that are not -- that reflect the kind of stylistic origins of the buildings.

Some of the roof forms will probably have shingle roofs but some may have some metal roofs that imitate a barrel tile, again sort of reaching back to the Cosimo's.

In addition to the sort of repeated motifs I think one of the other -- the idea that it lifts the project to another level by relating all five of the buildings.

By the way, we've also got -- we've also gotten Texas Roadhouse will be modifying their typical store to incorporate the same stone base. I think they normally have a brick base on their building. If you look at the elevations you'll see that they've changed that. They do have a metal roof which is part of their identity, but I think that's sort of compatible with the rest of the stuff we're proposing. They're going to be keeping some of their basic

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materials but adding some new materials to reflect the rest of the buildings in the center.

We've also spent a fair amount of energy or time in linking the architecture to the signage. For example, the -- although I think there's some -- maybe some discussion about the size of the directional signs on the property from Karen's comments, but the main pylon sign would again pick up some of the architectural elements, the azak trim, efface, stone, and present itself as another piece of architecture and not just a pylon sign.

I think maybe just a few -- not to get too long winded but just a few specific comments from Karen I think that would be important. One is all mechanical equipment that's on rooftops would be screened by parapets. We're at the very preliminary stages of the design of these buildings but that's a sort of basic thing that you would always attempt to do. Mostly the buildings are tall enough that if you have a four-foot parapet you're not going to see anything. We'll be checking that as we move through the design process.

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The plans again are at a very preliminary stage but we would like to have some actual three-dimensionality to the facades. Not just the building itself but there might be some movement in and out of the facade. There may be canopies added to some of these things. Again, these are very preliminary ideas. The character is set but the details would fall in. We're going to look to layer these things because that's an important feature.

I think, going back to signage, the building signage is going to be fairly much driven by the tenants. They have specific identities that we need to incorporate into their buildings to make them viable and preserve their identity which is important to them. The overall signage for the center would occur, which is primarily on this pylon sign. There's one building mounted sign on the Vitamin Shoppe and the smaller directional signs would have a similar character, probably similar type faces, dye cut metal letters.

There's reference in here to internal illumination which we understand is not -- sort

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of frowned on in your design guidelines but it's part of the reality of modern day retail in this environment and it's kind of an important presence. I guess I would say that we've attempted to adhere very closely to the design guidelines. There's a spot where it's kind of difficult for us to give them the identity that they need to succeed.

CHAIRMAN EWASUTYN: Okay. Thank you. I'd like to go back to the site plan and then we'll return to the ARB.

I would like to turn to our consultants to see if they have any comments on the site plan changes, and I would eventually turn to the Planning Board Members to just poll them to see if they're in harmony with the revisions to the site plan based upon what was originally the preliminary approval.

I'll turn to our consultants. Jerry Canfield, concerns about fire protection with the loss of the access on Orr Avenue, the circulation?

MR. CANFIELD: In the work session we had discussed the fire truck turning radius plan

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that was submitted. We reviewed that and fire protection wise I don't have any issues with the change in the plan as provided -- as shown.

One question I do have for the applicant's representative though, in your most recent comments we asked for a hydrant in the rear of retail building B. That will still be there; correct?

MR. WAESNER: Correct.

MR. CANFIELD: Okay. We have no additional fire protection concerns. I don't see that the elimination of that fourth entrance and exit is an issue fire protection wise.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant. Internal circulation, do you have any concerns with the change in the revised site plan?

MR. WERSTED: We don't have any concerns about passenger cars not having that rear exit to use. We didn't think there would be any significant use of it. The plans do demonstrate that the fire truck access can circulate back behind retail B. So long as the proposed truck design vehicle is similar to the

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fire truck or single unit, then I think that there will be an adequate access behind that area as well.

Did the applicant's representative say that there was a separate truck turning plan or was it only the fire truck that was analyzed?

MR. WAESNER: We also analyzed -- although we didn't show it on the plans, we also analyzed for a tractor trailer, a WB-50, to make sure. It does circulate through the site very similar to the way a fire truck would circulate.

MR. WERSTED: That's pretty much our concerns.

CHAIRMAN EWASUTYN: Jerry?

MR. CANFIELD: Just to elaborate on that. We did submit, and the applicant's representative did utilize the jurisdictional fire department dimensions for their largest ladder truck.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: I provided technical comments for the August 21st meeting. I know the applicant's representative has those. We haven't received a response to those. There's quite a

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few technical comments there.

I did get a call from Jim Osborne in response to one of my comments where a proposed ten-inch pipe was labeled as eight-inch for the water line. Jim reminded me the ten-inch pipe is not permitted in the Town of Newburgh. They only allow eight or the next size up, twelve. They don't maintain a stock of ten-inch vales, fittings and such for repairs, so that will have to be modified.

My initial take on the change in the access is that it still functions on the site fine.

I haven't looked at the grading plans or any impact of the drainage, which we will do.

I don't know if the Board wants to send them to a work session or have that go on our individual paths. I think a work session may be in order to tie it all together finally.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: It looks like the lot layout hasn't change so I don't have any issues with that.

We were just discussing at the work

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session that you guys were providing access to Mrs. Cook's lot on that drive. Are you guys planning on doing anything with that now or are you just going to provide an easement for her driveway?

MR. WAESNER: There is currently a twenty-foot wide right-of-way across the lot to Mrs. Cook's lot. That generally falls along the driveway closest to Orr Avenue. We anticipate maintaining that exactly as it is today.

MR. COCKS: Okay. Other than that, just with the next site plan submission, just the bulk tables, they're going to have to be revised to show the new coverages since there's less impervious area.

Include the variances that were granted.

CHAIRMAN EWASUTYN: Okay. Karen Arent, comments on the site plan?

MS. ARENT: I have a couple minor comments. The sidewalk ends abruptly right at the turn lane. The project diagonally across the street will have bus service out on Route 300, so I thought maybe that sidewalk should continue

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around just in case there is bus service on this project off of Route 300. I also questioned whether you checked with the bus service whether or not they would want to stop on Route 300 so that you would provide a place for them.

Landscaping of the stonewall should extend beyond where it's shown so that the view of the stormwater management area is screened completely from Route 300. Just extend the wall or do some landscaping.

The colors of the retaining walls are supposed to be presented during architecture review, so they need to be labeled on the site plan accordingly.

In your site plan you're showing two additional signs in addition to the pylon sign. Only one free-standing sign is allowed in the Town of Newburgh. That's it.

CHAIRMAN EWASUTYN: Thank you, Karen.

I'll poll the Board Members if the revisions to the site plan are satisfactory to each Member starting with Frank Galli.

MR. GALLI: Yes.

MR. BROWNE: Yes.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Yes. Can I --

including the comments that were made by the consultants.

CHAIRMAN EWASUTYN: Thank you. Joe Profaci?

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Having heard from Pat Hines, I'll move for a motion -- we will get back to ARB, but I'll move for a motion to set this up for the September Planning Board consultants' work session.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

CHAIRMAN EWASUTYN: And myself yes. So carried.

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Now I'd like to go back to the ARB as was presented. Karen, you discussed at the last moment the pylon signs. There was a request to vary from what has been consistent with the Planning Board in the design guidelines to not have internally illuminated signs in the Town. I'll let you speak for the Planning Board at this point.

MS. ARENT: First of all, the marquis type sign --

CHAIRMAN EWASUTYN: Hold on a second.

MS. ARENT: The marquis type sign with all the listing of the tenants is specifically in the design guidelines to be avoided. The project diagonally across the street removed all their tenants from their sign. We discussed in the past with the Planning Board since you have visibility problems with the projects way in the back, that you wouldn't see those signs from the road, that perhaps they would allow representation on the sign for those tenants, but all tenants that are visible from Route 300 cannot be listed on the pylon sign in keeping with other projects that have been approved in

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SHOPPES AT UNION SQUARE

the Town. All other projects have not used internally illuminated lighting on their signs. They figured out a way to do a variety of different types of lighting to get the message across. So the Planning Board would hold fast to this recommendation.

The Circuit City sign, that big black and red logo, that's counted as signage in the Town and so that makes an excessive amount of sign for that one particular building. That's something that should be discussed with Circuit City because in the past -- like on Hollywood Video, they eliminated all their background so they just have Hollywood Video to be more in conformance with the Town of Newburgh design guidelines as well as the code for allowable square footage of signage. We would expect Circuit City to do something similar. Also with Circuit City, you have the signs on all four sides. You probably just want two sides on the building.

MR. NYLER: I guess that's something we have to discuss with them as well as the change in their identity. I mean are you saying that

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SHOPPES AT UNION SQUARE

the size of the sign is calculated, not just the area where the letters are?

MS. ARENT: It's that whole black and red piece.

MR. DONNELLY: Look at the ordinance definition.

MS. GODDARD: The red and the circle. So it's from top to bottom.

MS. ARENT: Now that big top of the building that's black and red, that whole thing is counted.

MS. GODDARD: Not just the letters. I'm used to just doing around the letters.

MS. ARENT: The Town of Newburgh calculates -- Jerry, you know that ordinance inside out. If you want to --

MR. CANFIELD: Sure. Any time there's a contrasting color or it's perceived as part of the sign, we've always included it as square footage for the sign.

MS. GODDARD: We'll tell them that.

MR. CANFIELD: An example would be Hollywood Video, that was all incorporated or figured as square footage of the sign. It's part

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SHOPPES AT UNION SQUARE

of the signage.

CHAIRMAN EWASUTYN: For the record, can you introduce yourself?

MS. GODDARD: Donna Goddard from Goddard Development.

The pepper for the Chili's --

MS. ARENT: That was counted.

MS. GODDARD: So a pepper doesn't have words. That's part of the identity. Okay.

CHAIRMAN EWASUTYN: Karen, while we're on this subject of signage, you had said during the work session it might be good for the applicant to present a signage chart.

MS. ARENT: Yes. On the drawings, the architectural drawings, there should be a chart listing all the buildings and the square footage of signage. You do have that chart. I'm sorry. That's correct. But you have to calculate it according to the Town of Newburgh regulations. We would ask for the amount of square footage of signage for particular uses like Circuit City to be reduced to be more in keeping with other approved projects within the Town.

MR. NYLER: What's the guideline for

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SHOPPES AT UNION SQUARE

that in terms of -- like what's a project that's comparable in your mind?

MS. ARENT: A project that would be comparable that was recently approved is The Market Place.

MR. DONNELLY: From a sign point of view.

MS. ARENT: From a sign point of view. We can give you the specific square footages they allow. Another project is the one across the street, diagonally across the street. The Chili's, that was brought before the Town of Newburgh adopted the design guideline standards.

MS. GODDARD: May I ask another question? The signs on the buildings, the corporate identities, are they allowed to be illuminated but not the pylon?

MS. ARENT: No. Well, they're allowed to be illuminated, not internally.

MS. GODDARD: So it's either a gooseneck lamp or spotlighted or some --

MS. ARENT: Staples for example, they're putting the lights in the soffit over the sign to light the Staples logo.

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MS. GODDARD: I called the sign company to see what other choices they have.

MS. ARENT: They're familiar with this.

MS. GODDARD: This one wasn't. I'm going to keep checking someone else. Do you have pictures and things I can look at that were approved?

MS. ARENT: The project that's on the agenda next, they have incorporated this standard as their design.

MS. GODDARD: Okay.

MS. ARENT: As far as signage, I think that covers it.

There's a couple more guidelines. You need to put a table on your architectural drawing to list certain guidelines. For example, to limit the placement of signs to only areas shown in the architectural drawings. We're asking for this to avoid signs in windows and all over the building. That has been a problem in the past.

If you could prepare cohesive signage guidelines that include maximum sizes and heights for letters on the signs, and materials that the signs will be constructed with, and the type of

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SHOPPES AT UNION SQUARE

lighting you'll be using.

MR. NYLER: Another question. When I spoke to you earlier -- we've identified every sign panel on the building that we're requesting or as we've included in our signage calculation.

MS. ARENT: Yes.

MR. NYLER: Wouldn't the size of the letters be up to the person who rents a given space as long as they fit within that signage panel? Does it matter?

MS. ARENT: Some of those panels are quite large. For example, Texas Roadhouse. If it was like AT&T that was going to come in they would be like six-foot high letters. So that's why we're asking for a maximum letter size, to avoid something like an AT&T taking up that whole space. For the Texas Roadhouse you can coordinate the maximum letter size with the size of your building and your sign. For example, if it's a bigger building of course you would be allowed to have bigger letter sizes.

MR. NYLER: Right.

MS. ARENT: If you need an example, like The Market Place has an example of a chart

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SHOPPES AT UNION SQUARE

if you want to see it --

MR. NYLER: That would be helpful.

MS. ARENT: -- if that's helpful.

MR. NYLER: It is.

MS. ARENT: Did you include -- I didn't see the actual square footage of signage on your architectural drawings.

MR. NYLER: They're on the site plan. There's a tabulation.

MS. ARENT: Okay. As long as it's on either the site plan or the architectural drawings. Okay. So that's it on the signage.

CHAIRMAN EWASUTYN: Karen, would you suggest that during the -- would you make a recommendation that they also come forward during the work session to discuss --

MS. ARENT: That would be great. I could bring some of the materials of the guideline charts that have been prepared in the past for you to review if you so choose.

MR. NYLER: That would be great.

CHAIRMAN EWASUTYN: Is the Board in agreement with that?

MR. GALLI: Yes.

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MR. BROWNE: Yes.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Is there anything else you'd like to discuss this evening?

MR. WAESNER: Just as a point of clarification, at some point it seems that we're going to need to go before the Zoning Board for a variance for some of the signage. Can you just tell me what the process is for that? Once we finish architectural review we get referred, or is that architectural review contingent upon the Zoning Board?

MR. DONNELLY: Usually what the Board has wanted to see is that you have a cohesive sign plan that is satisfactory to the consultants and this Board, and then that can go to the Zoning Board. The variance would be needed before the final ARB could be granted but we found in the past that if when you go to the Zoning Board we haven't worked out the requirements of cohesion, and allocation, and letter size, and lighting it puts the cart before the horse. As soon as you can get that together

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SHOPPES AT UNION SQUARE

and the Board signs off on it it can go to the Zoning Board.

MR. WAESNER: I wanted to make sure I understood the process so there's no further miscommunications. Thank you.

CHAIRMAN EWASUTYN: Any additional questions?

MR. NYLER: No.

MR. WAESNER: No. Thank you.

MR. BROWNE: John, a couple comments.

CHAIRMAN EWASUTYN: Cliff Browne has the table.

MR. BROWNE: When the presentation was given for the ARB the term probably and will look like, similar kind of things were used quite frequently. When we approve this the specific items that you show us will be in fact on the drawings and that will be what you're required to use, not something that you think is close to it or similar. So when you bring something to show us exactly what you're going to use, not something that's kind of close and what I think might be or probably will look like. That doesn't fly, okay.

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Also just for myself, the copies that you gave us don't look anything to me like the drawings that you gave us originally, and what I'm seeing here I don't like. I like what I'm seeing down there, okay.

MR. NYLER: What is it you feel is different, for example from the Vitamin Shoppe?

MR. BROWNE: What I'm looking at here, I mean to me I don't like this at all, the whole color scheme and the building layout.

MR. NYLER: This is identical to the building that's in the model.

MR. BROWNE: Identical to that down there?

MR. NYLER: To Cosimo's, yeah.

CHAIRMAN EWASUTYN: The color scheme is very similar.

MR. NYLER: The color schemes are similar. The way they print, different drawings print different.

MR. BROWNE: That's what we approved for the preliminary thing over there, that's what I want to see.

MR. NYLER: Okay. That's the same

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building. It's the color scheme. Again, they don't print -- this is a different printer than that one. I can bring you the colors.

MR. BROWNE: The bottom line is when you build it --

MR. DONNELLY: The color samples and swatches and that, identify them by manufacturer and number is what we'll need to see. I think what Cliff is saying is let's not choose between the drawings. When you have the materials then he can decide if it's satisfactory.

MR. BROWNE: Yeah. If that's what we approve, that's what we like. To me it's a world of difference. Do what you can.

MR. NYLER: Sure.

CHAIRMAN EWASUTYN: Frank?

MR. GALLI: On the mechanicals, when you're traveling east on 17K check the roof lines real well because on the Lowe's site, if you're coming down 17K you can see them and we don't -- the Town doesn't want to see mechanical units on the roof. Just check that real well when you're doing the drawings.

That's it, John.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: On the Texas Roadhouse, I notice they have a Texas flag that flies on the building. Is that considered part of their corporate logo or -- I mean it seems --

MR. NYLER: I would have to ask them.

MR. MENNERICH: -- unusual.

MR. NYLER: Their representative isn't here tonight. That's the way they sent the rendering to us.

MR. BROWNE: There's also a height issue. You know that; right?

MR. NYLER: 25.

MR. BROWNE: The American flag has to be higher than something else on there. Okay.

CHAIRMAN EWASUTYN: Joe, do you have anything?

MR. PROFACI: Nothing further, John.

MR. GALLI: One quick question on the flag part. Would that be considered signage? Not the American flag. Is the state flag considered signage? If the Texas Roadhouse is flying a Texas flag as a logo, is it considered as part of the signage? When they do their calculation,

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SHOPPES AT UNION SQUARE

they don't get all done and then when they come back say we forgot the flag. So they know upfront, is the flag part of the signage?

MR. CANFIELD: It's part of it, yes.

MR. GALLI: You have to include the flag in your signage ahead of time so you know.

MS. GODDARD: I'm glad to know now.

CHAIRMAN EWASUTYN: Any additional comments from the Board or the consultants?

(No response.)

CHAIRMAN EWASUTYN: Thank you.

MR. WAESNER: Thank you very much.

CHAIRMAN EWASUTYN: Bryant Cocks will notify you as to the date and time when you're on the consultants' work session.

MR. WAESNER: Great. Thank you very much.

MR. COCKS: It's the 23rd.

CHAIRMAN EWASUTYN: What's the date, Bryant?

MR. COCKS: The 23rd.

(Time noted: 7:53 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 15, 2008

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

----- X
In the Matter of

SOUTH UNION PLAZA
(2006-41)

Route 300 and Little Britain Road
Section 97; Block 3; Lot 1
IB Zone

----- X

ARB & SIGNAGE

Date: September 4, 2008
Time: 7:53 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

----- X

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SOUTH UNION PLAZA

MR. BROWNE: The next item of business is South Union Plaza. Gregory Shaw or whoever is here.

CHAIRMAN EWASUTYN: AJ.

MR. COPPOLA: Thank you, Mr. Chairman. Briefly, I'm here representing South Union Plaza. Previously I think it was called Newburgh Towne Center. I'm here tonight to primarily discuss the architectural review and the signage. I was here for this project three or four months ago and between that time we went to I think two workshops to work out issues like signage, the monument sign, colors and materials.

I just have a few comments to go through, basically some of the changes. Actually, let me just refresh everybody's memory real quick what we're doing here before I get into the specifics. On the site plan there's three buildings. The Staples building is in the center. There's another retail component of that building that faces Old Little Britain Road. We have a rendering of that facade, too. Walgreen's is on the corner and then the retail -- one-story retail building is the diagonal building. That

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SOUTH UNION PLAZA

contains IHOP, Quizno's and there's a bank on the end with a drive-through, just to kind of refresh everybody's memory again.

I think what I'll do, let me present my renderings real quick and then we'll go over the changes from last time. This is the retail building here. We had presented this rendering several months ago. That's the IHOP with the IHOP blue metal roofing. We're using that component throughout. This is the bank here on the corner with the brick face and the drive-through which is just cut off in the rendering. The Staples rendering here, basically it's the large building in the center with this retail building component, like I said, facing Little Britain Road. That's the side entrance here and that's kind of a chamfered corner.

One of the changes that we made from last time, there was a comment that there was too much of this blue IHOP canopy around here. I think it actually started at this point and wrapped all the way around. We reduced that and downsized that considerably.

Then the Walgreen's rendering, there's

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SOUTH UNION PLAZA

a diagonal entrance here on the corner which faces the intersection, and that's a new rendering.

Some of the other changes we made since last time, we looked at the color of the -- the specific color of the blue roof at Karen's recommendation and we kind of settled that at workshop. I have a sample tonight if anybody wants to see it. Karen has seen the sample. As I said, we reduced the wrap around effect here with the aluminum roof, so that's minimized here.

We provided a detail on all the drawings for the HVAC. There's the parapets or the bench on there. This low building, the retail building here has a parapet all the way around. So we're actually hiding the mechanical equipment kind of in a depressed area in the roof. I think that will be completely screened by the canopy all the way around. That is shown on the drawings also.

We changed the cultured stone veneer. We updated the ARB form to reflect that to go with the cultured stone. That's more natural looking and that's going to match our stone out

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SOUTH UNION PLAZA

58

front, the stonewall that's going to be on Route 300. We have that sample with us, too.

A couple of quick notes on the signage. We reduced the size of our monument sign. We still do have a monument sign that is here. It's way over here. It's much smaller than it was before. Let me see if I can pull that out real quick. Before we had I think something that was twenty-five feet high. This is it now. Basically it just calls out the title of the property.

Then from that we basically developed a full comprehensive signage plan so that every building is on here, every sign is noted, the color of the sign, the size of the lettering. Last but not least, there is a note on there that says no internal illuminated signage. So all the block letters, the channel lettering that you see is going to be illuminated by either gooseneck lighting or where we can do soffit lighting. I think we can do that in Staples. We'll do that there. I think that's basically it.

CHAIRMAN EWASUTYN: Are you here this evening for ARB approval of the site plan?

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SOUTH UNION PLAZA

MR. COPPOLA: Yes.

CHAIRMAN EWASUTYN: Karen, and I'll turn to the other consultants and Planning Board Members but I'm going to refer to you for any outstanding comments you have at this point.

MS. ARENT: On the ARB I still have the comment that the Staples sign is quite large. I also found out that you have to calculate the entire red area of the Staples sign.

MR. COPPOLA: So it's like Jerry said, that whole red area. Okay. I don't know if we're over then.

MS. ARENT: That sign is much larger than any of the other signs within the plaza.

MR. COPPOLA: The lettering you're saying?

MS. ARENT: Substantially larger.

MR. COPPOLA: I think it's 72 inches.

MS. ARENT: That was my one comment on Staples.

It seemed to me that Walgreen's does not show a sign on the facade that faces Old Little Britain Road. Is that correct? And there's no sign for the drive-through or the

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SOUTH UNION PLAZA

60

facade that faces the plaza?

MR. COPPOLA: We are not showing a sign on Old Little Britain Road. We're just showing 300 and the diagonal sign. I think I'm going to have to check that. Starting with the signage calculation, I know we have extra but I've got to solve the Staples problem first. We'll reduce that and then if I can add the other one I will.

MS. ARENT: The only other concern is we never received color renderings for our final review before tonight's meeting. It would be helpful to have that in the file for reference.

MR. COPPOLA: I apologize for that. I did get your e-mail but too late today.

MS. ARENT: We do have the black and white drawings but we need to have the color drawings for the file --

MR. COPPOLA: Understood.

MS. ARENT: -- for reference.

On the architectural review that is it.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Karen mentioned we didn't get revised ARB drawings, so I don't have any

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SOUTH UNION PLAZA

61

comments at this time.

CHAIRMAN EWASUTYN: Do you have anything, Pat Hines?

MR. HINES: No. We recently received a resubmission for the engineering details, a revised stormwater management report and plans that I assume address our previous comments. It wasn't scheduled as an agenda item so we didn't review it yet.

CHAIRMAN EWASUTYN: Jerry Canfield, do you have anything to add at this time?

MR. CANFIELD: On the site plan all fire protection concerns have been addressed.

One issue on the site plan. When it comes time for the resolution of approval, I received a memo -- actually, the code compliance department received a memo from Jim Osborne, the engineer, with respect to the July 25th City of Newburgh correspondence in regards to protection of the watershed. There's some issues in their -- the City of Newburgh's correspondence that Jim feels should be included in the resolution, enforcement proceedings, again to further protect the City of Newburgh's watershed with respect to

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SOUTH UNION PLAZA

62

the parking lot, the plowing of snow, usage of pesticides and that type of thing.

MR. HINES: That information I know is on the latest submission I have as map notes.

MR. CANFIELD: Okay.

MR. HINES: We have a revised stormwater management plan that's supposed to also address that. We haven't reviewed it yet.

MR. CANFIELD: That's it.

CHAIRMAN EWASUTYN: Ken Wersted, do you have any comments on the ARB that you'd like to add?

MR. WERSTED: I don't have any comments on the ARB.

CHAIRMAN EWASUTYN: Thank you.

Frank Galli?

MR. GALLI: I think you did an excellent job on the ARB, Anthony. It's going to be a shame that Staples sign is going to stick out like a sore thumb.

MR. COPPOLA: We'll definitely look at that.

MR. GALLI: If you can get them to downsize, that corner would be excellent.

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SOUTH UNION PLAZA

63

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I agree. I'm glad you got rid of all that blue.

MR. COPPOLA: That was a good suggestion actually.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think it looks good, and with the reduced size of the Staples sign, and the lettering in particular on that sign, it would be helpful.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I agree with everything that was said.

CHAIRMAN EWASUTYN: Okay. Karen, are we in a position to approve the ARB and the signage or is that something that would come at a later date? Mike?

MR. DONNELLY: I suppose you could, but given that he can't do anything with it until there's site plan it might be just as easy to see it revised before you grant it, unless there's something I'm missing.

MS. ARENT: John, we should --

CHAIRMAN EWASUTYN: Please.

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SOUTH UNION PLAZA

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MR. COPPOLA: I'm tied into the final site plan approval anyway. It's just a question really if I'm coming back here when Greg comes back here and we're going to look at this again. I don't really care about -- I guess the technical approval really doesn't matter, it's just a question of me resolving the comments. I probably wouldn't come back here. I mean I don't think you want to see this again.

CHAIRMAN EWASUTYN: I'm looking for direction from Mike Donnelly, Karen Arent and final opinions from the Planning Board Members.

MR. DONNELLY: Is it the sort of thing you think the Board needs to see again or you can do a sign-off letter?

MS. ARENT: I can do a sign-off letter.

CHAIRMAN EWASUTYN: Would the Board be satisfied with that?

MR. GALLI: Sure.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Yes.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Joe Profaci?

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SOUTH UNION PLAZA

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MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Mike, would you give us conditions for ARB approval in the resolution?

MR. DONNELLY: Yes. They would be the standard ARB conditions which say -- you know what it says -- you can only build what has been approved by the Architectural Review Board, and there's a requirement that you submit the plans and have them reviewed by Karen at the time of the building permit application. I will not, and I don't think we need to, prepare a separate resolution. I will incorporate those conditions into a single resolution at the time of site plan approval that will recite those dates. In the meantime we will have received I'm sure the letter from Karen and everything will be in order.

CHAIRMAN EWASUTYN: Okay. And you will come forward with the color renderings that will be needed for the files also?

MR. COPPOLA: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to approve the ARB for the

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SOUTH UNION PLAZA

South Union Plaza subject to getting a sign-off letter from Karen Arent, Landscape Architect.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. MENNERICH: Does that approval include the signage?

CHAIRMAN EWASUTYN: Correct. A sign-off letter from Karen Arent for the signage. Correct.

Any additional discussion?

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

CHAIRMAN EWASUTYN: Go ahead.

MR. GALLI: If we approve it and then they do have to go to the ZBA we have to waive -- are you going to stay --

MR. COPPOLA: I don't want to go to the ZBA. I think we've got enough room to make that work.

MR. GALLI: That was the only thing.

CHAIRMAN EWASUTYN: I have a motion

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SOUTH UNION PLAZA

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from Frank Galli. I have a second by Joe Profaci. We had discussion by Ken Mennerich and a discussion by Frank Galli. Any additional discussion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself aye. So carried. Thank you.

MR. COPPOLA: Thank you very much.

(Time noted: 8:07 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 16, 2008

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

----- X
In the Matter of

ANCHORAGE ON THE HUDSON
(2008-17)

Anchor Drive off River Road
Section 121; Block 1; Lots 16 & 17
R-1 Zone

----- X

AMENDED TWO-LOT SUBDIVISION & CLEARING & GRADING

Date: September 4, 2008
Time: 8:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANDREW FEATHERSTON

----- X

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ANCHORAGE ON THE HUDSON

MR. BROWNE: The next item of business is Anchorage on the Hudson. Justin Dates is the consultant.

MR. FEATHERSTON: Mr. Chairman, Members of the Board, I'm here because my applicant -- my client has received a notice of violation from code compliance and I'm here to explain basically what was done. I brought, for comparison purposes, the original site plan as well as the plans that we modified for Health Department approval. Basically the client was stopped from -- was denied a clearing and grading permit because the site plan had changed from the original plans.

If I can I'm going to -- these are the two lots. This is 16 and 17 down at the Anchorage. I blew those two up so we could get a better look at what I'm speaking about. This is downhill going down the road. These two swales -- these two lots as they were originally designed created a swale which directed a lot of the stormwater runoff directly across the absorption fields. They were originally typical tile fields, pipe and stone septic system.

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Some of the other things that we saw with the plan that really made it difficult was there's a thirty-foot change in excess of that from one corner to the other corner on these plans. From that corner to that corner. We regraded the lot. We regraded the lot taking advantage of the Health Department allowing a more compact system to the infiltrator systems for the septic. We went out after the fill was placed and we had the original perks and deep tests. Essentially the site is sand. It's all bank run. We had the original perk tests. My client came and brought in some additional bank run to fill these two front yards. I'm showing right now on the north. They're just about identical. This is 16. They're just about identical. I color coded them green and yellow so I could keep them straight and explain it a little better.

We went back out after the fill was placed, did some additional testing, found that the soils that were placed for the construction of the septic was similar to the soils that were naturally in place. We designed a septic in

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accordance with Orange County Health Department standards, submitted and got their approval. These are the signed plans, both of these, for lot 16 and also lot 17 that are approved by the Health Department.

In doing that we also regraded the lot to make it dead level from front to back. It slightly graded away from the house but there is no thirty-foot change from the front yard to the backyard in either lot. It's now a buildable, livable residence.

What we're looking to do is -- I received the comments from the Planning Board consultants and I'm looking for direction on how we could remove that violation.

CHAIRMAN EWASUTYN: Jerry Canfield, Pat Hines.

MR. HINES: If I can start. The original subdivision as approved had a note on the approved subdivision map that said any modification in grading would require re-approval by the Planning Board. They are here now. The grading has been modified which triggered the need to review it. As you remember, the site had

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some steep slopes and there were some concerns about the types of soils on the site and the ability to stabilize those. They have gone out and gotten their Health Department approval on the revised septic systems. I reviewed those plans. I have a couple of new comments. I guess the grading shown on the plan is complete, there's no additional grading on the site.

MR. FEATHERSTON: Short of when the homes have to be built, but yes.

MR. HINES: What we're suggesting is that the same note as note 8 be required on these re-approved plans, that any modification to the proposed grading would require re-approval. There's some stormwater management facilities that apparently have been installed along the front of the lots that weren't in compliance with the original plan also that are now shown.

MR. FEATHERSTON: Yeah. There was something that was removed. There was that diagonal drainage easement that was required previously. This brought all the drainage to a low -- a pit essentially, a low depressed area that required to be drained because the next

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ANCHORAGE ON THE HUDSON

driveway down created a dam. So all of that water would get trapped, and that had to come out. Now with the raising of these lots to match -- understand, when you're driving -- when you were driving on this road it dropped off. This is a severe drop off of that road requiring a guide rail. The plans that we've done to modify this are level going across so that severe drop off no longer exists. Understand it used to drop off from the road and then rise up severely in the rear. This is quite a rise and that was the low area in the beginning. So we tried to level it off.

MR. HINES: I think we're okay with the grading work, it's just a procedural matter here because of that note was the issue.

There was a requirement for a cross grading easement across lot 16 and 17 because of the proposed grading you have, but if that grading has been accomplished then that won't be required.

MR. FEATHERSTON: Maybe we'll put the note -- Pat, I'm only thinking that if it's required at the home. There is some in the rear

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at the home. If it's required at that point maybe we would just leave the note.

MR. HINES: That's fine then.

Back to the drainage easement that you mentioned. There was a thirty-foot wide drainage easement that ran right through the middle of, I guess it's lot 16.

MR. FEATHERSTON: It was here. Right.

MR. HINES: That can be eliminated now, Mike.

MR. DONNELLY: If it's not needed, yes. Are we talking about approving a new plat and filing it?

MR. HINES: What I think we talked about was that we would file it with the Town but not necessarily the County.

MR. DONNELLY: I agree.

MR. HINES: It doesn't change the lot lines. I think we're filing a revised plat with the Town. The only approval we gave this was subdivision approval.

MR. DONNELLY: Right. The condition was that in the event they changed grading they would come back to the Board, but the approval

1
2 the Board gives is really just a that's okay
3 approval, it's not an amended subdivision that
4 would have to be filed with the county clerk.

5 MR. HINES: Then it looks like -- I
6 assume that the drainage you show on the plans --
7 you gave me a maintenance plan that you haven't
8 shown the Board yet that had some fifteen-inch
9 pipes on there.

10 MR. FEATHERSTON: There's some drainage
11 down in the front. Unfortunately this is the
12 legal plan, it doesn't have the grading on it.
13 One of your comments said why is the drainage
14 easement in favor of 15 on 16. Because the road
15 does go downhill in that direction.

16 MR. HINES: Exactly.

17 MR. FEATHERSTON: The water goes this
18 way, hits the driveway and stops and it creates
19 that dam. We want to allow the owner on 15 to
20 kick the leaves off of the inlet top in case it
21 clogs up.

22 MR. HINES: That's fine.

23 That was the extent of our comments. I
24 think the Board can re-approve these plans as the
25 Health Department already has done.

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CHAIRMAN EWASUTYN: When you say re-approve these plans, this would be for lot 16 and 17?

MR. HINES: 16 and 17, yes. My comments included the couple notes I ask be shown on there.

MR. FEATHERSTON: Revise the plans, resubmit to the Board with the notes?

MR. HINES: Yeah. I'm fine if the Board wants to do that subject to me signing off on it.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: We don't have anything further. Pat pretty much covered it. Actually it's all engineering.

As Andrew stated, all of this started with an enforcement action basically on another lot of this subdivision which has nothing to do with the owner and this application, and then we observed some other issues as well. Pat's office was brought into it and has been handling it from the engineering portion of it. If the Planning Board is satisfied, the code compliance department is satisfied. It will greatly enhance

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ANCHORAGE ON THE HUDSON

and help this enforcement action getting cleared up.

CHAIRMAN EWASUTYN: Pat, in your review you made mention of a sign off from the Town highway department. Is that still needed?

MR. HINES: That had to do with the piping. I don't know if that roadway was dedicated yet or if that piping is --

MR. FEATHERSTON: It hasn't been dedicated yet, no.

MR. HINES: I will contact Daryl and make sure he's okay with that. There's some drainage changes also that aren't consistent with the original plan.

MR. FEATHERSTON: Some of the drainage that was added was done after this plan. We'll just make sure that the whole thing is brought up to speed and is consistent.

MR. HINES: Get the highway superintendent a copy of that also when it's consistent.

MR. FEATHERSTON: I sure will.

MR. HINES: How does the easement go away, Mike? There's a rather large easement area

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ANCHORAGE ON THE HUDSON

on one of the lots.

MR. DONNELLY: I take it nothing was recorded, it was only shown on the filed map. I don't have the file.

MR. FEATHERSTON: On these lots?

MR. HINES: The previous thirty-foot drainage easement on lot 16, the lot to the left, --

MR. FEATHERSTON: This here.

MR. HINES: -- that should go away. There's no reason to encumber that lot with that easement.

MR. DONNELLY: We're not suggesting changing the county clerk's filing. It should be removed on the Town filing, and if there's a recorded easement I think you can release that because you own both lots at this point. That can be done privately.

MR. HINES: It may have been in favor of the Town, the easement.

MR. DONNELLY: Andrew, you're going to have to find out if that was ever recorded. If the Town no longer needs it you may want to undo it with the same level of formality with which it

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ANCHORAGE ON THE HUDSON

was created.

MR. FEATHERSTON: We're going to have to check into it. Yeah, okay.

MR. HINES: It's needlessly encumbering that lot.

MR. DONNELLY: You'll find out about it on the sale.

MR. FEATHERSTON: Right. Okay. Thank you.

CHAIRMAN EWASUTYN: Bryant Cocks, do you have any comment at this point?

MR. COCKS: I don't. The property lines haven't changed. The house locations haven't changed. We have no issues.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: Jerry, are you satisfied with these two lots? Did he satisfy the owner that originally got disturbed?

MR. HINES: It's a different owner.

MR. CANFIELD: It's a totally different owner. It has nothing to do with this owner. That's a separate issue. It was just being on site and observing it snowball.

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ANCHORAGE ON THE HUDSON

MR. GALLI: Okay.

MR. CANFIELD: Perhaps the first problem helped create some of this problem.

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Thank you. Cliff Browne?

MR. BROWNE: I'm good.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing further, John.

CHAIRMAN EWASUTYN: Mike, my understanding is that we would be approving the revisions to lots 16 and 17 that were presented tonight subject to a sign off from Pat Hines, --

MR. DONNELLY: Right.

CHAIRMAN EWASUTYN: -- Drainage Consultant, and then the applicant will refer to you as far as the original drainage easement that was shown on lot 16. If that was filed then the necessary recording would have to be made. If not then it's really a mute point.

MR. DONNELLY: That's correct. And the applicant will be required to present a set of

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ANCHORAGE ON THE HUDSON

plans for signing and filing with the Town.

CHAIRMAN EWASUTYN: Then I would move for the approval of that revision of lot 16 and 17 that was just presented.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for approval starting with a roll call vote with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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

MR. FEATHERSTON: Thank you, Mr. Chairman.

CHAIRMAN EWASUTYN: Michael, things are moving well with the project on Fletcher Drive?

MR. PEREZ: Yeah. We're going to go

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ANCHORAGE ON THE HUDSON

back in shortly. We had a VC issue.

CHAIRMAN EWASUTYN: Then we'll be seeing you I think in the next two weeks as far as Brookside.

MR. FEATHERSTON: Brookside, yes.

CHAIRMAN EWASUTYN: You've made all the necessary adjustments?

MR. PEREZ: We believe so.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:20 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 16, 2008

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

----- X

In the Matter of

LANDS OF CHARLES PELELLA & WILLIAM BELL
(2007-29)

End of Lockwood Lane, south side of Colvin Lane
Section 8; Block 1; Lot 8.12
R-1 Zone

----- X

FOUR-LOT SUBDIVISION

Date: September 4, 2008
Time: 8:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

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

1
2 MR. BROWNE: The next item of business
3 is the Lands of Charles Pelella and William Bell.
4 It's Jim Raab.

5 MR. RAAB: We were before the Board
6 about a year ago. At that time we were -- we
7 decided that we needed to have a meeting in the
8 field with Pat Hines, Jim Osborne, Daryl Benedict
9 and myself regarding the extension of Lockwood
10 Lane to this cul-de-sac that will serve the four
11 lots we're proposing in the subdivision. We had
12 that meeting and basically everybody was
13 satisfied as long as we turn Colvin Lane into the
14 curve that we were proposing to go into the
15 subdivision, that that would be fine, and it
16 would have to be regraded up about 150 feet back
17 up into where Colvin Lane is right now. We were
18 then -- we then went to the Town Board to get
19 approval from them for the extension. We may
20 have some issues where we may have to go back,
21 based on what Pat says, if we can't change the K
22 factors and percentage to work. Basically that
23 was approved subject to the approval of the fire
24 inspector's office and the Middlehope Fire
25 District, which we got both in July.

1
2 So we're back here to possibly get a
3 conceptual on this subdivision so that we can
4 take care of all the items that Mr. Hines and Mr.
5 Cocks had in their reviews, and also maybe
6 address some issues that the Planning Board might
7 have tonight.

8 CHAIRMAN EWASUTYN: Okay. Jim, thank
9 you.

10 Pat, you wrote about a possible waiver
11 from the Town Board.

12 MR. HINES: That was the K values Jim
13 had just mentioned.

14 MR. RAAB: Either we have to change
15 them or we have to get waivers from them.

16 MR. HINES: The vertical curve doesn't
17 meet the Town roadway standards. There's also
18 some off-site grading onto the adjoining property
19 for the roadway relocation on the property that
20 had the orchard.

21 MR. RAAB: The property that has the
22 orchard. I believe it's outside the -- we might
23 have to move the right-of-way out a little
24 further. They're willing to give us whatever we
25 need.

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MR. HINES: Whatever agreement you have has to go to Mike Donnelly.

The stormwater management plan needs a lot of work, coordination between the plans and report and such. That's going to need to be done.

The driveway for lot 5, the slope looks really steep to function there. Also lot 5, if you step out the back door I think you're going to be stepping in a detention pond. There's not a lot of usable area there. You might want to take a look at the house location or lot geometry there.

MR. RAAB: Okay. Either that or reconfigure the pond.

MR. HINES: You may have to reconfigure the pond anyway.

Lot 1 isn't shown on the bulk tables.

MR. RAAB: That's because it's an existing lot.

MR. HINES: But it's not part of this subdivision?

MR. RAAB: No.

MR. HINES: It's just getting access

1 off the road?

2
3 MR. RAAB: It might not even need
4 access off the road. The driveway would -- the
5 existing driveway that's there now, they have
6 two. They have one that goes right down into the
7 common driveway they share with the property back
8 here, okay, and they have a driveway that kind of
9 loops out and back around again. The cul-de-sac
10 just happens to be on top of it. We cut this lot
11 out three years ago.

12 MR. HINES: It was part of the parent
13 parcel?

14 MR. RAAB: That's the reason why the
15 lot number wasn't on it. I figured that was going
16 to come up and I waited for you to bring it up.

17 MR. HINES: That's all we have. I know
18 he has my technical comments and they need to get
19 addressed.

20 The geometry of lot 5 is tough with the
21 detention pond being on there. If the Board
22 wants to take a look at that while you have the
23 plans open there. It's got a really steep
24 driveway in the front and a detention pond.

25 CHAIRMAN EWASUTYN: Any comments from

1 the Board Members on this?

2 MR. GALLI: No additional.

3 CHAIRMAN EWASUTYN: Cliff Browne?

4 MR. BROWNE: You're going to fix that,
5 aren't you? Are you going to fix that?

6 MR. RAAB: Yeah. We can pull this back
7 up into here. It's just that I think it got
8 basically slapped on here a little too quickly
9 and it really should be back up in this area over
10 here. If we pull it further away -- it's not a
11 big deal. We have to work with grading in the
12 front and make sure that driveway isn't as steep
13 as it is right now. We just need to maneuver
14 that around a little bit, that's all. I don't
15 see it being that big of a deal.

16 MR. BROWNE: Okay. Thank you.

17 CHAIRMAN EWASUTYN: Ken Mennerich?

18 MR. MENNERICH: I guess he's here for
19 conceptual approval on this project.

20 The K values, do you think that can be
21 worked out, Pat?

22 MR. HINES: They can modify the
23 grading.

24 MR. MENNERICH: I don't have any
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problem with that.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have nothing, John.

CHAIRMAN EWASUTYN: Jim, one comment.

I'm not sure, you show 120 linear feet where that -- behind lot 5. Is that 21-inch HDP? Is there such a thing as a 21-inch?

MR. HINES: There is but it's not consistent with the stormwater report that identifies it as 24.

CHAIRMAN EWASUTYN: So that's a minor --

MR. HINES: That's the kind of coordination that needs to take place.

CHAIRMAN EWASUTYN: Bryant Cocks, your comments.

MR. COCKS: One of my first comments was regarding the existing driveway that's going to run behind lots 4 and 5, and you kind of answered it. You guys are going to decide --

MR. RAAB: We're going to address that other comment you made about the cleared area. We're going to work with all the house locations because I took -- I read your comments very

1
2 thoroughly and I agree with both yours and Pat's
3 comments. We'll make sure it's sized properly.

4 MR. COCKS: A surveyor's seal needs to
5 be on there.

6 The location map was kind of fuzzy.
7 Anyone else is going to request a clear one when
8 you send it out.

9 The well on lot 1, if you know where it
10 was. I couldn't see it.

11 MR. RAAB: It's on one sheet but not on
12 the other. We have to make sure it's on both
13 sheets.

14 MR. COCKS: You mentioned that path
15 between lots 2 and 3. I didn't see any stop or
16 yield sign. I don't know what was decided on
17 that.

18 MR. RAAB: We have to put them up.
19 There's going to have to be something on Colvin
20 and Lockwood, yes.

21 MR. COCKS: There's no signage there.

22 MR. RAAB: It's either got to be a
23 yield or a stop. I think in this case it should
24 be a stop.

25 MR. COCKS: I'm sure that will be part

1 of Daryl's when he does his comments.

2 MR. RAAB: We're going to send the next
3 set of plans to Daryl.

4 MR. COCKS: Okay. And also just a road
5 name approval and a waiver for roadway length,
6 and then to send this to the Orange County
7 Planning Department and declare lead agency.

8 MR. DONNELLY: It's a Type I action.

9 MR. COCKS: Yes.

10 CHAIRMAN EWASUTYN: I'll make a motion
11 that will have several components to it. That
12 would be that we move to grant conceptual
13 approval, that we move to refer this to the
14 Orange County Planning Department under 239-M of
15 the Municipal Law, that we declare our intent for
16 lead agency, and we recognize the fact that this
17 is in the ag district and it's a Type I action.

18 Correct, Mike?

19 MR. DONNELLY: Yes.

20 MR. PROFACI: I'll move for those
21 motions.

22 MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. So
carried.

MR. RAAB: Thank you very much.

(Time noted: 8:29 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 16, 2008

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

----- X
In the Matter of;

LANDS OF MITCHETTI
(2004-65)

Route 52 between Washington Ave & Lincoln Ave
Section 52; Block 5; Lot 1
B Zone

----- X

SITE PLAN

Date: September 4, 2008
Time: 8:29 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

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LANDS OF MITCHETTI

MR. BROWNE: The next item of business is Lands of Mitchetti. Ken Lytle.

MR. LYTLE: Good evening. I'm here this evening actually representing Rick Mitchetti.

If you remember, approximately three or four years ago we were here looking at a very similar plan. At that point there were a couple zoning issues regarding the sale of cars that was trying to be achieved. Since then, back in June a small tornado came through the area. If you remember, the current service station was across the street. He had some major structural damage to the building. The existing owner which he has not -- has not done anything about repairing and working with, and the building department and the Planning Board moved along to help him out in a bad situation.

What we're actually proposing is an existing garage. There's an existing residence which is used as a caretaker's residence and it will remain that way. The existing garage, they're looking to put a small addition on it, approximately 1,244 square feet.

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We're proposing the parking spaces or the spaces for the cars to remain overnight, which you're allowed to have four. We're proposing those in the back. There's a blacktop service area in the front.

We have designed actually a septic area, an expansion area if there is ever a problem with the existing septic.

We've shown water lines to both buildings.

We've actually met with Daryl at a workshop meeting a couple weeks ago. We were asked to meet with Daryl regarding the access for the caretaker's facility off of Washington Avenue. We've met with him. Being as busy as he is he has not had a chance to write a letter. We'll get that for you. That's really about it.

CHAIRMAN EWASUTYN: What is it that you're asking of the Planning Board tonight?

MR. LYTTLE: What we're hoping to accomplish -- it's a small addition, small site plan, less than 2,500 square feet. I understand there's a provision actually directed back to the building department for their review. That's

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what we're asking for.

CHAIRMAN EWASUTYN: What is it you're proposing to do as far as improvements to the site besides the addition of the building?

MR. LYTLE: Basically everything that we have on the site plan, which would be the new parking area out front, landscaping. We have some comments from Karen on the landscaping. We have no problem with those comments. The parking in the back, the vinyl fencing, what was asked for around the back of the building, the new driveway, the caretaker's facility, the new entrance onto Route 52 to meet the DOT standard.

CHAIRMAN EWASUTYN: Okay. Are you proposing curbing on site?

MR. LYTLE: Yes, we are.

CHAIRMAN EWASUTYN: Mike, would you discuss with us where we stand with this as far as waiving a site plan or what conditions we may make part of this approval?

MR. DONNELLY: Section 185-56 B of the ordinance, and I had given you a letter on this back in August, does give you discretionary jurisdiction when site plan approval for a use

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would ordinarily be required, to waive the requirement of Planning Board site plan review in those cases where the building on the site is under 2,500 square feet in size, and I believe that is the case here. It is for you to determine whether or not that waiver is appropriate.

When the applicant met at the consultants' meeting we suggested to the applicant that they make sure that what is proposed on the plan would be the type of proposal that in the normal practice of this Planning Board would receive or could receive site plan approval. I believe after that it's been made to show what I would call a conforming site plan. If you feel this is a case where you want to exercise your discretion and waive the requirement of formal site plan approval, I believe that you could do so.

I think based upon our discussion at the work session, that it would be appropriate that since you're basing that waiver on these improvements and what that would mean to the character of the neighborhood and issues such as

1 traffic, drainage, appearance,
2
3 et cetera, that you require that the improvements
4 shown on the site plan be completed within some
5 reasonable time period. And of course if the
6 applicant obtained the other approvals required,
7 the highway superintendent, the highway work
8 permits from the DOT, et cetera.

9 Additionally, the caretaker use is a
10 permitted accessory use in this zone. I think
11 there should also be a condition that the
12 caretaker residence be used for that purpose only
13 and by an employee of the business only.

14 I think it would be only fair, if you
15 went in that direction, for the applicant to
16 acknowledge that the failure to comply within
17 whatever time period you set with all of the
18 improvements shown on the site would constitute a
19 zoning violation, and have the applicant
20 acknowledge that in that case he would be subject
21 to appropriate enforcement action by the Town. I
22 believe within those parameters you could grant
23 the waiver of site plan approval. You will need
24 of course to fix the time period within which
25 those improvements need to be completed.

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CHAIRMAN EWASUTYN: There was one other point of importance that we discussed, and there may be others if the Planning Board Members could remind us of the fact in reference to a note on the plans as far as selling of used vehicles.

MR. DONNELLY: That's right. I see in my notes I forgot to mention the imposition of a condition which states the obvious, and that is that no used car sales or storage of used car vehicles for sale could take place on site. That is not permitted.

CHAIRMAN EWASUTYN: I'm going to turn to the Board Members to talk about what we discussed in a very broad sense was the possibility of not requiring curbing as shown on the site but taking that monies and putting it into certain visual improvements of the site, this being an entryway to the Town of Newburgh on the westerly side.

You just sat in when we reviewed projects on Union Avenue as far as the design guideline standards, the visual images that we're looking for for everyone in the Town. We're actually looking for everyone, both local

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business people and small business people as well as the larger people who come in, to sort of help weave this thread throughout the Town of Newburgh.

What the Planning Board had discussed was again doing away with the curbing, using some of that money to put in a section of stonewall along the front of the property. Karen would make some recommendations as far as maybe the changing of certain trees, whether it be Cornamusa to certain Maples. Again, working within the same dollar amount that was being proposed here but creating something that was conceptually more improving.

What the Board was looking to do in order to work with the applicant who is saying right now he doesn't have the financing is to allow a two-year timeframe for him to complete these improvements. It would just be sort of a gentlemen's agreement that at the end of two years time he would be on his feet and he would be more than willing to contribute to the Town as far as making these improvements. Some of them he may be willing to undertake as he's

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LANDS OF MITCHETTI

going through the building process, others he may want to wait until the spring. In fact there would be a note that would allow him two years in which case if he didn't comply with that he would be in violation.

I'll turn to Frank Galli for his comments.

MR. GALLI: I just have two questions. I see the dumpster enclosure on the map. Garages usually have used tire storage. There's always a thing in the paper about mosquitoes and water in tires and stuff. Is it going to be stored inside, outside?

MR. MITCHETTI: Inside the enclosure.

MR. GALLI: They'll be inside the enclosure?

MR. MITCHETTI: Yes.

MR. GALLI: The second thing is on the fencing in the rear, the Town design guidelines -- in order to waive it, the Town guidelines more or less.

MR. LYTLE: Right.

MR. GALLI: On the rear property where you abut the residential to the commercial, is

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LANDS OF MITCHETTI

that whole back property line going to be fenced or partial of it is going to be fenced or partial is going to be landscaped?

MR. LYTLE: Right now we're proposing for the fencing to go around there. That was part of the approval process we started a couple years ago. If he didn't have to I'm sure he would be interested in not doing that and applying this money somewhere else.

Again, there's an existing what remains of a fence between the properties. We do have landscaping inside of the fencing.

MR. GALLI: We would much rather see the fencing.

MR. LYTLE: It's proposed on the plans.

MR. GALLI: Vinyl fencing?

MR. LYTLE: Vinyl fencing instead of the wood stock.

MR. GALLI: What's the length of that? Just behind the garage or --

MR. LYTLE: It's actually behind the garage. It goes from the back of the caretaker's facility out around the back of the new garage.

CHAIRMAN EWASUTYN: Is that

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LANDS OF MITCHETTI

satisfactory, Frank?

MR. GALLI: Yeah. If we're going to go the way we're talking. If it's on the plan and we give him time to do it, as long as he lives up to that. If he's a good neighbor, that's fine, I don't have a problem with it.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Thanks, John. My original inclination was to not grant a waiver on this because of the history of the property and the whole situation. However, with the situation and the circumstances and with the conditions, if you can say that that was laid out by Mike, I can go with what we're proposing now.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I'm in agreement that we can go along with what's being proposed.

Just a couple questions. Is it the applicant that's requesting a two-year timeframe?

MR. LYTLE: Yes.

MR. MENNERICH: Okay. And the other question is on the proposed sign, it says it's roughly a four by five sign, I guess both sides, which would be 40 square feet or whatever. Then

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LANDS OF MITCHETTI

it says that it's not to exceed 180 square feet.

MR. LYTTLE: Okay.

MR. MENNERICH: What is it?

MR. LYTTLE: I believe 180 is actually the number. We'll check and clarify that later.

MR. MENNERICH: The other thing you're aware of is it can't be internally illuminated.

MR. LYTTLE: That's correct.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'd just like to reiterate that if the applicant is willing to stick by this agreement and understand that that is an area of Route 52 which is pretty much an eyesore, that whole stretch there, and if he's willing to put some effort into making it look a little better, a lot better if possible, then I'm willing to go along with this waiver also.

MR. LYTTLE: Thank you very much.

CHAIRMAN EWASUTYN: So you'll work with Karen Arent over the exchange for improvements that she'll make -- advise you on.

MR. LYTTLE: No problem.

CHAIRMAN EWASUTYN: Comments from Board Members. Jerry Canfield?

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MR. CANFIELD: The conditions that you present basically puts the enforcement action back into the code compliance department, the zoning enforcement. Just so the applicant's representative is aware of that. We will have to follow up on that. We'll have to create a tickler in a two-year period to assure all the items that were agreed to tonight are fully implemented.

One other comment on a fire protection note, and I did fax Ken, the building with the addition is required to be sprinklered, and that is per the Town of Newburgh code which is more stringent than the New York State Fire Prevention Building Code.

MR. GALLI: I have a question on that if I could, John. Are you going to sprinkler the building?

MR. LYTLE: It's not really an option. It's the Town of Newburgh specific code.

MR. GALLI: We'll receive a letter from the fire department.

MR. LYTLE: That's why he needs to get going on it.

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LANDS OF MITCHETTI

MR. GALLI: Good.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: After we met in work session with the applicant's representative and the applicant and we went over some suggested changes to the plan which have been incorporated on the plans which we received late last week, I feel more comfortable now that those changes have been made to tell the Board that we're in favor of the waiver process. The applicant did explain the situation to us at the work session in detail, what situation he's in.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I have no further comments. I agree with Pat, they addressed all the issues from work session.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: I'm going to work with the consultant. They are showing a lot of landscaping around the house and they're showing some trees. There's existing trees around the house I think that we don't need some of that landscaping, that could be better used around the

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parking area. They are showing landscaping. They are showing evergreen trees between the property line and the fence that they are proposing which will help screen the back of the building as well.

The note that you wrote underneath the sign, that has to be taken off because if you're showing a five-foot by four-foot sign you can't have a note underneath that says it can't be more than 180 square feet because then you can't put a dimension on your sign. You're making us believe it's only 20 square feet, five by four.

When I work with them we'll exchange the landscaping that's shown already on the plan, take some of that off and use it for screening of the parking areas and things like that, as well as the stonewall.

CHAIRMAN EWASUTYN: And then refer to Pat Hines for cost estimates as far as what the curbing would have cost and the trade off and where those dollars could be applied in other areas for the benefit of the Town.

MS. ARENT: Sure.

CHAIRMAN EWASUTYN: Ken Wersted, do you

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LANDS OF MITCHETTI

111

have anything to add at this time?

MR. WERSTED: No comments.

CHAIRMAN EWASUTYN: Mike Donnelly,
would you help us at this point?

MR. DONNELLY: One of the things we'd like to do is, the applicant is present, I think he should identify himself and I think it would be helpful if we have him acknowledge his understanding that if this resolution is passed that he will be subject, if he does not complete the improvements within two years, to possible enforcement action. That he acknowledges that he understands at that time if those improvements are not completed he will be in violation of the Town Zoning chapter. I think it's important that he acknowledge that.

MR. MITCHETTI: I understand.

MR. DONNELLY: Your name for the record.

MR. MITCHETTI: Richard Mitchetti.

MR. DONNELLY: So you understand the resolution that the Board is proposing and the conditions of it?

MR. MITCHETTI: Yes. Eliminating the

1
2 curbing.

3 MR. DONNELLY: Therefore your
4 resolution would then be, one, to waive the
5 requirement of site plan approval under Section
6 185-56 B of the Zoning Ordinance. The condition
7 of that would be that within two years all of the
8 improvements shown on the plan as modified by
9 Karen Arent who will give you a sign-off letter
10 need to be completed. Some of the items to be
11 changed have to do with landscaping as well as
12 the swapping of the internal curbing shown on the
13 plan for a stonewall. There shall be no storage
14 of -- there shall be no sale of used cars on site
15 or storage of vehicles for such sale. The
16 caretaker cottage must be used for that purpose
17 only by an employee of the applicant's business.
18 All of that is -- the other agency approvals will
19 still be required, the highway superintendent and
20 the DOT. It's all subject to a sign-off letter
21 and full compliance with building code issues.
22 I'll put that into a written resolution following
23 this evening.

24 CHAIRMAN EWASUTYN: Actually the motion
25 this evening is to not approve the site plan but

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LANDS OF MITCHETTI

113

to --

MR. DONNELLY: Waive the requirement that will be submitted on the agreement that he will complete these improvements. You're basing the waiver on his representation that he will make these improvements. If these improvements were not made, I think from our earlier discussion you would not be inclined to grant the waiver.

CHAIRMAN EWASUTYN: Having heard the conditions and the resolution to waive the site plan approval subject to those conditions for the lands of Mitchetti, I'll move for that motion.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for approval with a roll call vote with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

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LANDS OF MITCHETTI

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

MR. LYTTLE: Thank you very much.

MR. MITCHETTI: Thank you.

(Time noted: 8:48 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 16, 2008

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

----- X

In the Matter of

LANDS OF BARRY WHITE
(2008-02)

Fostertown Rd between Summit Ridge & North Fostertown Rd
Section 17; Block 1; Lot 40
IB Zone

----- X

TWO-LOT SUBDIVISION

Date: September 4, 2008
Time: 8:48 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: BARRY WHITE

----- X

MICHELLE L. CONERO
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MR. BROWNE: The last item of business this evening is the lands of Barry White. It's being presented by Michael Miele.

MR. WHITE: Good evening, Mr. Chairman. I'm Barry White. Nice to see you again. I fully expected to be represented this evening by my engineer, Mr. Michael Miele. I was informed just shortly before the meeting of a life-threatening event regarding his newborn son. I will ask your indulgence in the sense of my abilities to handle this circumstance in his stead.

My belief is that we're here tonight to determine whether we can gain approval for a piece of land known as 421 Fostertown Road and simply, hopefully simply, dividing it into two parcels for which various data, engineering studies, et cetera, have been previously submitted, most recently -- the most recent event was a hearing I believe July 24th in front of the ZBA regarding a variance which was approved. Thank you.

CHAIRMAN EWASUTYN: Mr. White, you realize we would have to have a public hearing on this as part of the procedure. What we would be

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LANDS OF BARRY WHITE

117

looking to do tonight is to see if we can get a recommendation from our consultants that they're satisfied in making a recommendation to us that we make a SEQRA determination so then we could take the following action which would be to set it for the next available date for a public hearing.

MR. WHITE: Fine.

CHAIRMAN EWASUTYN: At this point I'll turn to Jerry Canfield. Jerry, do you have anything to add to this?

MR. CANFIELD: No. Nothing at all.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have some comments. Your engineer should have gotten them by e-mail. I don't know if he did or not.

MR. WHITE: He did leave a voicemail for me about 6 this evening saying that he had received them but due to the emergency he could not respond tonight. He was intending to do that tomorrow.

MR. HINES: Basically the project accesses a County road and there are details and

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notes that are required for projects that access County roads. Because it's on that County road it will need a referral to County Planning.

MR. DONNELLY: That was done in February.

MR. HINES: Okay. There's a note on the wall saying the stonewall won't be disturbed but there's a proposed well that can only be constructed by disturbing the stonewall. I suggested a note be added that required reconstruction of those stonewalls after the well and well lines have been installed.

The percolation tests that are shown on the plans don't comply with appendix 75-A. There's an eleven-minute difference between one of the perk tests and a five-minute difference between the other perk test. They're basically not stabilized. They need to be within ten percent in order to be considered stabilized between the runs. The eleven minutes and five minutes both aren't within that requirement. There's going to be some additional work required for the design of the septic fields.

We're suggesting that the inspection

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note on sheet 2, and you may be interested in this, be more generalized. It states that your engineer and only your engineer needs to sign off on the septic. It should state that a New York State licensed design professional, not the specific engineer, sign off on it. That's been an issue in the past with the code compliance office and your representative because of the note that says specifically him and they had letters from other people.

Note 4 needs to be revised to require the submission of an as-built plan of the septic prior to the certificate of occupancy.

Note 18 needs to be modified to require notification of both the design engineer and the Town's representative. It says or. It should be both of them.

The dedication parcel for the roadway. The existing well on lot 1 looks like it will be impacted by that dedication parcel. They're proposing to give the County a strip of land for highway purposes. The Public Health Law requires that wells be fifteen feet off the property line. After the dedication parcel that they're showing

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is dedicated the well will be significantly less than the fifteen feet. I think they need to check with the County to see if they'll waiver that dedication parcel width in that area or that well needs to be relocated. That fifteen-foot limit minimum is a requirement.

I didn't know the variance was granted. There should be a reference on the plan that the variances required were granted and what specific variances were granted.

Mr. Miele apparently has these comments and can work on addressing them.

MR. WHITE: A question if I may. The comments that you just transferred to me, when were they transmitted to Mike Miele?

MR. HINES: They would have been sent the day before the meeting, yesterday, in accordance with the Planning Board's procedures. I will note that we did receive the plans late but did continue to review them.

MR. WHITE: Mm'hm'.

CHAIRMAN EWASUTYN: Which we understood because Dina had referred that to I believe you and then you had a representative contact our

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office saying that the plans would be forthcoming and they were distributed accordingly.

MR. WHITE: Correct. If I may, in layman's terms what do I do next?

CHAIRMAN EWASUTYN: I think that's a good question. I think from where I sit I have the same question. I think what I might make a recommendation from the Board is, and we still have to hear from Bryant Cocks, it would be good that Mr. Miele respond to Pat Hines' comments, respond to the comments of Bryant Cocks. Since there is this family crisis right now we don't know if that will happen today, two months from now. Once we receive an approval from Bryant Cocks, if the Board agrees, and Pat Hines, then under Board business -- we'll set it up for a Board business item to make a SEQRA determination and then schedule for the next public hearing. This allows a reasonable response from you and it doesn't put anyone in a position of making it too lengthy or too many issues left unclear.

MR. HINES: It will keep you from having to come back to another meeting before scheduling your public hearing.

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CHAIRMAN EWASUTYN: Good point.

Please.

MR. GALLI: That's Pat Hines' comments and that's the next (handing).

MR. WHITE: That's helpful. Thank you.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I also e-mailed my comments to Mike, so he has them. My first one is just regarding my previous letter, just some changes to the Environmental Assessment Form. Those are pretty minor so he'll just have to send a revised one out to us.

The plans are also going to have to have a surveyor's seal and signature and an engineer's seal and signature.

As Pat mentioned, put on the plans the ZBA determination.

We asked for the sight distances for the driveway locations to be put on the plans.

You misspelled the word Orange one time on the sheet.

The plans were forwarded to the Orange County Department of Public Works and the Planning Department. We didn't receive any

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LANDS OF BARRY WHITE

123

response. We haven't heard back from either of them and thirty days is up from the Planning Department.

You will need an approval from the DPW for the driveway location.

MR. DONNELLY: Is there a letter?

CHAIRMAN EWASUTYN: On 4/30/08 we got something from the Department of Public Works.

MR. WHITE: There was a delay actually I think outside the control of Mike Miele.

CHAIRMAN EWASUTYN: If you don't have it I'll give that to you.

MR. COCKS: I didn't have either response in my file. I can get that from Dina.

Then just on the adjacent wells and septics, to show separation distances. I don't know if Pat commented on that already. I know that was asked at the last meeting. Mike has all these comments.

MR. WHITE: Are they included in the one I was just handed?

MR. COCKS: Yes.

MR. WHITE: Good.

CHAIRMAN EWASUTYN: Comments from Board

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LANDS OF BARRY WHITE

124

Members?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. MENNERICH: I understand what you're proposing, John. It sounds fine. I was just wondering, we declared our intent for lead agency in February. Do we need to make a motion for that or --

MR. DONNELLY: It was Unlisted so -- because it's Unlisted there weren't other agencies, it was final at the time you did it.

MR. MENNERICH: Thanks.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: Nothing further.

CHAIRMAN EWASUTYN: So we understand, once we receive a sign off from our consultants, under Board business we'll then set this up to make a SEQRA determination. What we mean by that is in order to set it for a public hearing we have to make a negative declaration saying that we looked at any potential adverse impacts, they either may or may not exist. If there are, that they were mitigated the best way possible.

MR. WHITE: Okay.

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CHAIRMAN EWASUTYN: In which case that would be the action and then we would set it for a public hearing. What will happen then is you would get a list of who to mail to, certified mailings. You have to do the certified mailing. Dina Haines, Planning Board Secretary, when she's back will talk to you about that.

MR. WHITE: How does that differ from what we've already done prior to this meeting for the ZBA?

MR. DONNELLY: It would be the same process for this Board.

MR. WHITE: Is it not redundant?

MR. DONNELLY: Yes, but the law requires it.

MR. WHITE: Okay.

MR. HINES: It will even be the same list.

MR. WHITE: Okay.

MR. DONNELLY: John, do you want to hold off conceptual approval until that other date or take action on that?

CHAIRMAN EWASUTYN: I think at this point we can grant conceptual approval. Thank

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LANDS OF BARRY WHITE

you, Mike.

I'll move for a motion to grant conceptual approval for the two-lot subdivision for the lands of Barry White.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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

MR. WHITE: Thank you.

(Time noted: 8:59 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 16, 2008

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

----- X

In the Matter of

WOODLAWN HEIGHTS
(2003-47)

Request For 180-Day Extension of Conditional
Final Approval

----- X

BOARD BUSINESS

Date: September 4, 2008
Time: 8:59 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO
10 Westview Drive
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WOODLAWN HEIGHTS

MR. PROFACI: Now for Board business.
The first item is Woodlawn Heights. We received a letter from Daniel Sullivan requesting a 180-day extension of conditional final subdivision approval. The current approval expires on September 6th of 2008. With the extension of the approval it will be valid through March 5th of 2009.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Yes. So carried.

(Time noted 9:00 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 16, 2008

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

----- X

In the Matter of

NEWBURGH PLAZA
(2005-35)

Requirement of traffic after-study

----- X

BOARD BUSINESS

Date: September 4, 2008
Time: 9:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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NEWBURGH PLAZA

MR. PROFACI: The next item is Newburgh Plaza. We received a letter from Ken Wersted dated August 15, 2008 for the conditions of approval that require a traffic after study to be completed one year after the project opens.

MR. WERSTED: Thank you for having me tonight. I'm Ken Wersted from Creighton, Manning Engineering representing the Planning Board as Traffic Consultant.

The plan I'm presenting tonight is the Newburgh Plaza plan that was presented several years ago. As you recall, the former Lloyd's building was in this area. They tore that down and they developed PetSmart and the Kohl's. There are a couple other out parcels that still have yet to be built including some retail and a restaurant down here on the southern side, and then there was also retail B which was included in phase 3 which occupied that old gas station that was out on Route 300.

As part of the approval we went through a traffic review process and noted

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NEWBURGH PLAZA

that the applicant was going to do an after study to follow up on a few things. In both the correspondence from the applicant and the approval resolution it notes doing the traffic study approximately a year after Kohl's is open. The project was proposed to be done in three different phases, phase 1 being the PetSmart and the Kohl's, phase 2 being the two out parcels to the south and phase 3 being the redevelopment of the gas station.

What isn't precisely clear is whether the after study needs to be done after this phase 1 or after the entire development. Given that it's been a couple years and nothing has really moved on phase 2 or phase 3, I'm assuming that it could be several more years before any of that is done and we could be three or four years out before the project is complete.

In my letter dated August 15th I've outlined a couple of options that I think we have. As you'll recall, the Newburgh --

CHAIRMAN EWASUTYN: Towne Center which

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NEWBURGH PLAZA

134

it was originally called. Now it's called
Union --

MR. WERSTED: South Union.

CHAIRMAN EWASUTYN: As far as our
records, it's Newburgh Towne Center.

MR. WERSTED: Newburgh Towne Center.
That project is on the southeast corner of Old
Little Britain Road and Route 300. They did a
traffic study after the Kohl's and the PetSmart
were completed. So the traffic that was being
generated by these two uses are included in the
traffic study that was done.

The first option that we have is
obviously requesting the applicant to do an after
study based on the square footages, the Kohl's
and the PetSmart that's complete now. Conduct
it, see if there's any impacts, factor in the
other uses that are still proposed, and then
determine what the construction costs of any
improvements are.

I'll note that the former Lloyd's
building, the original traffic study was done by
John Collins Engineers as well as the updated
one. Both had a northbound right-turn lane on

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Route 300. That's really the only improvement that's proposed. Obviously we have this project that's before the Board now. If there's a way that these two can coordinate and pay for a share of the costs between the two for the improvement, that's great, otherwise it's going to be on one applicant.

Another option is given that the traffic study for South Union Plaza/Newburgh Towne Center that was done obviously included this development, a smaller study could be done by this applicant just to confirm their existing trip generation, and that is either equal to or less than what they originally studied, and then -- not to get into additional detail but then to share the cost of this improvement and be done with it.

The last one was to wait until the entire project is complete, which could be several years out, and then have the applicant come back and do a full traffic study of everything and determine what those improvements are. Likely it's going to continue to be this northbound right-turn lane. And then the

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question will be if Newburgh Towne Center moves forward and they construct that right-turn lane, they can't get reimbursed for any of those improvements that have already been constructed. It's kind of a timing issue. I see those as our options. I would like to discuss those.

CHAIRMAN EWASUTYN: We'll open it up for discussion from Board Members. Frank Galli?

MR. GALLI: Personally I'd like to see everything developed in that corner, see them do a traffic study there compared to the original traffic study to see how much traffic we picked up, if there's new commercial development across the street. By that time 84 and the Thruway will be open. Just, you know, take it from there and see what happens there. I don't know how long they agreed to as far as waiting. That would be my personal opinion.

MR. WERSTED: I think it's certainly worth a reminder to them. I think after we kind of conclude what direction we want to go in, to remind them that that still is hanging out there based on what you decide.

MR. GALLI: Probably don't mention the

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NEWBURGH PLAZA

137

other plaza but just their own.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I agree with that. The plan was approved with the whole three parcels -- all three things done.

CHAIRMAN EWASUTYN: Phases.

MR. BROWNE: That's what we're talking about rather than a piece of it. It seems obvious to me if you do a study now with some of it done, you'll have to do another study.

MR. HINES: You kind of did just do a study with the other project.

MR. WERSTED: For the Newburgh Towne Center it included the Kohl's and the PetSmart because those are the two phases that are open now.

MR. HINES: You've got that.

MR. BROWNE: They didn't include the other parcels, a restaurant and --

MR. WERSTED: 6,000 square feet of retail, about 7,500 square feet of restaurant, and this is 3,000 square feet of retail, potentially a gas station.

MR. BROWNE: I would assume the

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NEWBURGH PLAZA

138

restaurant would be a high turnover and trips.
Probably more than Kohl's.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The other two projects,
are we having a requirement in there for a
follow-up traffic study for those two projects?

MR. WERSTED: No.

MR. MENNERICH: Neither one of them?

MR. WERSTED: No.

MR. MENNERICH: I don't really see any
point in doing the study right now with what's
there. Basically I'm over there quite often and
there's no problems, so --

MR. BROWNE: It's empty.

MR. MENNERICH: Yeah. And to get them
to pay for a right turn or something when another
project is going to be building, I don't know how
you can get them to contribute.

MR. WERSTED: Well it's something that
they have -- first off, I kind of concur with
your observation. I come over here and shop at
PetSmart when I get down early enough. I've
never had any trouble getting in and out.

In regards to the right-turn lane, they

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NEWBURGH PLAZA

139

identified that as an improvement as part of this project. Obviously it's carried forward with the development of these other projects as well. So it's going to get built, it's a matter of whether it's possible to share it between the developments or, you know, if one person is just going to take care of it all.

MR. BROWNE: What was the trigger on the right-turn lane?

MR. WERSTED: Basically the volume of traffic heading northbound, turning right.

MR. BROWNE: For Kohl's? Was there a trigger on it for Kohl's when it was completed, the volume, or was it just --

MR. WERSTED: It was based on the volume. I mean they looked at the whole development here. There were some other improvements.

MR. BROWNE: I mean at what point in the project was it supposed to be built? When the whole thing was built out or was it just if the volume threshold reached a certain point then they had to build it?

MR. WERSTED: It was, as far as I

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NEWBURGH PLAZA

140

recall, looked at as a total development. It wasn't developed with these two and then that one and then this one to see when this is triggered. It was the development of all this.

MR. BROWNE: So basically --

MR. WERSTED: The full build out was going to require this improvement.

MR. BROWNE: Once the build out is complete they're supposed to in fact put in a right-turn lane when traffic changes, period?

MR. GALLI: No. I think if traffic changes only.

MR. BROWNE: That's my point.

MR. WERSTED: It's if the traffic --

MR. GALLI: A substantial increase.

MR. WERSTED: -- that was studied here, if it's actually realized. For example, if PetSmart and Kohl's generates half the amount of traffic that was originally studied, then you wouldn't reach the level at this intersection.

MR. BROWNE: That's what I'm trying to get to. Essentially they're not really required to do the right-turn lane until they reach -- unless they generate a threshold of traffic that

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NEWBURGH PLAZA

141

would -- as of now there's no reason for Kohl's, for them to build.

MR. WERSTED: I say that's partially true in a sense that they haven't built out everything yet. The study here also shows that there's a need for the right-turn lane with just these parcels. Obviously they included this project up here, their traffic. So whether it's needed right now with just these two and without this project is one question. With the development of all these projects, this right-turn lane was just going to increase -- it's going to be needed.

MR. MENNERICH: Who is going to pay for that?

MR. WERSTED: Right now it appears it's going to be this developer.

MR. BROWNE: With their volume I don't see -- I don't see them generating that much traffic for the volume to require them to foot the bill.

CHAIRMAN EWASUTYN: Let's talk about it in a not emotional way but a legal way. I think we're meandering from the point. The point is

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that there needs to be this improvement, okay.
The after fact that five years from now this may
be built out and the improvement is already going
to be in place, I don't know if it's possible to
say to me John, you're not getting everyone to
contribute at a time when you want them to
contribute assuming that they can.

The other question I pose to you, Mike
Donnelly, is this was approved based upon phases.
Jerry Canfield and I recently had this
conversation. Going back to our last meeting
where site plans have two years and then you can
get an extension for another year, how does that
relate to phased plans whereas can this
perpetually go on and on and on and these phases
are never complete or does he have to come back
and get an extension in which case if he doesn't
do it it's dead?

I bring to you now the fact with the
16,500 square foot build out of the Mid Valley
Mall, they eventually wrote to us and said hey,
because of financing, because of this, because of
that I need an extension on this particular
building. So there's a lot of things we're

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NEWBURGH PLAZA

143

talking about here and I would like for us to get focused on it now, Please.

MR. DONNELLY: Let me start off, since you did it last, with the phasing issue. I think generally when you approve a phasing site plan you're really only approving phase 1, that the applicant would need to come back to you again before they did phase 2 or 3 so the two year plus one time limits are on the first phase because it may never go beyond phase 1. That may be the only phase.

In terms of the traffic issue, I don't have a real distinct recollection but I did bring a copy of the resolution. The condition actually required that the applicant post the \$10,000 for the study, not that they do the study, so that the Town could hire Creighton, Manning to do the study. I don't see any discussion about a commitment to do traffic improvements. Usually when there isn't one -- this was a situation where we wanted to have the study because we knew it would be helpful with other applicants. I'm wondering, if I'm hearing Ken say that whether you do the study now or whether you do the study

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after full build out, the only thing it's going to tell you, if I'm hearing you correctly, is that that right-turn lane is needed. We already know that it will be needed and we have an applicant who's incorporating making that improvement in his plans. Does it make sense to try to talk to this applicant about releasing the \$10,000 for the purpose of making the improvement rather than do a study at any point in time if it isn't going to give us anything we don't already know. Maybe I'm not hearing you correctly but that might make more sense.

MR. WERSTED: That's an additional option.

MR. DONNELLY: Did we ever get the money, do we know? I assume we did because the resolution required it.

CHAIRMAN EWASUTYN: I can't answer that now. I'll have to check with Dina, check the files.

MR. DONNELLY: That may be a better direction to go. It's more useful and it's a little bit more fair. The \$10,000 isn't going to go a long way on this.

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NEWBURGH PLAZA

145

CHAIRMAN EWASUTYN: That's the maximum we could ask for at this point.

MR. DONNELLY: Well the resolution makes reference to Creighton, Manning's memorandum and what not. We kind of incorporated that by reference. The intent and the timing and the use of it was that the \$10,000 was to be held by us. This was not a project, at least from the resolution, where there were triggers that the applicant was going to make certain additional other traffic improvements if certain thresholds were met at other points in time. We have done that on occasion. I'm thinking the study was simply envisioned as a study that would be useful like we did in The Market Place. To have them do a study is a step toward getting the State to make improvements when you demonstrate to them the need.

MR. HINES: You did it at Wal-Mart. You did an after study.

MR. DONNELLY: But not necessarily with a commitment that they would do anything. Sometimes applicants, particularly commercial retail developers, are willing to help make the

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improvements because it increases shopper access so it's in their interest to do so. That was not one where we imposed it. Maybe we should look into whether we have the \$10,000 and see whether it makes sense to transfer that money if this applicant will allow to the other applicant at the time those improvements were to be done to help serve the real cause, which is to make the improvements.

MR. WERSTED: I'm going to refer to a January 5, 2006 letter from Langan Engineering to myself. The Board was copied. In one of the closing paragraphs there's a number of comment responses, and in one of the closing paragraphs "It is our understanding that the above action sufficiently addresses your concerns and that no further action is needed at this time to receive Board approval. We have agreed that the study area used in the previous study is still an appropriate limit for the after study and that post mitigation may be necessary pending the results of this after study."

MR. DONNELLY: That's helpful.

CHAIRMAN EWASUTYN: So mitigation would

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NEWBURGH PLAZA

147

be a contribution to an improvement of that intersection, Mike?

MR. DONNELLY: It sounds to me like they conceded that they would need to fund some and that this and maybe some more might be appropriate. I just think it might make more sense, rather than spend the money on the study, to put the money toward the cost since we know that's the improvement that's needed anyway.

MR. WERSTED: In the opening paragraph of that same letter the last sentence reads, "The after study will confirm if the recommended improvements outlined in John Collins Engineers traffic study dated November 19, 2002 are appropriate."

MR. DONNELLY: So they already identified some improvements that might be needed.

MR. WERSTED: Correct. I believe that original study in 2002 also included quite a bit of build out on Unity Place. So their concern in regards to this project was a lot of the improvements outlined in that study also had the development of Unity Place kind of tying into

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NEWBURGH PLAZA

148

that. The development of Unity Place is going to generate a substantial volume I guess pushing the need for some of these improvements and they didn't want to bear the burden of all the improvements just because of this development. They wanted to do the after study as a way to kind of determine what's needed because of this project.

CHAIRMAN EWASUTYN: What if you were to, with the Board's consent, write to John Collins and put all this information together and move in the direction of looking to actively mitigate this section. He's worked for Greg Shaw and he's worked for -- can we do it that way?

MR. PROFACI: That's a good idea.

CHAIRMAN EWASUTYN: That might be the best investment with the \$10,000 when the study isn't really needed.

Jerry, I know you've had a few minor issues with the Kohl's site. How is that working out? Are they responsive?

MR. CANFIELD: Yes. We had an issue at the site with the temporary fencing around the proposed phase 2 area that had fallen down, or

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been knocked down, or blown down. Basically all it is is the chain-link construction fence that's on stands. It has been a problem in the past that it does get blown down or knocked down. I spoke with John about it and raised a couple issues. Again it's with these phased projects, particularly this one, is there a timeframe before the other phases are to be completed. The big question is do we have a vehicle in place to get this developer back to the Planning Board to perhaps make this site a little more stable?

MR. DONNELLY: Well I mean maybe a violation notice would, but usually when there's subsequent phases, knowing that they might never be built, we've usually made efforts to impose requirements as part of phase 1 that will make sure that the remainder of the land that may or may not be developed in the future will be safe and stable and reasonably attractive, whether it's just that it's grass and not weeds and rocks or maybe at times temporary landscaping. So usually we've done that. I don't know what went wrong here that didn't make that work but usually we've looked to achieve that.

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CHAIRMAN EWASUTYN: I think what may have went wrong here -- nothing went wrong. Really it's just that the market conditions changed from then until now.

MR. HINES: You have to remember that site had a DEC remediation on it.

CHAIRMAN EWASUTYN: I said that to Jerry originally. There was a one-year period --

MR. HINES: There was monitoring. There was the former Lloyd's fuel tank and there was contamination there. Someone might not want to put a building over top of it.

MR. CANFIELD: In speaking with Joe Corn from Newburgh Plaza, he had said exactly that. When I had asked him, and that was a week-and-a-half ago, to put his updated version of what's happening with that particular site with respect to the DEC monitoring in writing to us so we have it, and I was quite candid with him. I said to be honest with you Joe, I said this is getting to be quite a problem where we have to keep going back to the site and we may be looking in terms of something a little more permanent, something a little more aesthetically pleasing

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NEWBURGH PLAZA

151

other than just this construction fence. He had
voiced his opinion -- not his opinion. He said
look, market conditions are not conducive to
finishing the site, but he said I have had a few
people interested but I'm under restriction of
the DEC. So that's when I asked him, I said
that's fine because that will weigh either way
how we push the issue or not. You know, if
you're under DEC direction obviously we can't
push you to do anything either. Quite frankly I
don't know if we have any authority to push him
at all.

MR. DONNELLY: Maybe we should look at
the plans.

Karen, you have been very careful to
make these recommendation, that is there is a
treatment required of the site. Maybe they can't
disturb because of the DEC. I don't know.

MR. MENNERICH: They have that
underground storage system for water there, too;
right?

MR. HINES: It's on the other side.
It's in the front parking lot.

MR. MENNERICH: It's not on that side?

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NEWBURGH PLAZA

MR. HINES: No.

MR. GALLI: That's Murphy's ditch.

MR. HINES: It's in the front parking lot. There's also one on the PetSmart side by Webb.

They can be having trouble. When you do an environmental on it it's going to show it was a former spill site. You're saying market conditions but you have two complexes developing around them.

MR. PROFACI: That's exactly what I was thinking. It's not as desirable.

MR. HINES: It's not visible and it's gotten environmental stigma on it that may be --

MR. CANFIELD: Red flagging.

CHAIRMAN EWASUTYN: What direction do we want to take? The first direction is we'll have Ken Wersted prepare a letter and touch base with John Collins and see how they want to contribute to the improvement. Is there any avenue we could take as far as --

MR. HINES: It looks unsightly.

MR. DONNELLY: Well first we should look at the plans.

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MS. ARENT: I'll look at the plans. I just did an inspection and I have to write a report. I'll look at the plans to see if there's any phasing.

CHAIRMAN EWASUTYN: In your notetaking, you would like her to look at the files to see if we actually have a \$10,000 --

MR. GALLI: Yes.

MR. DONNELLY: John, if we assume for the moment that it's not in the plans, maybe you want Karen or Pat to tell us what would be a suitable treatment, then we can approach the applicant and ask him if they're willing or able to do that.

MR. HINES: DEC will always let you pave over a spill. It puts an umbrella over it.

MR. DONNELLY: I don't know the pavement is what we want.

CHAIRMAN EWASUTYN: I drove by after you spoke, Jerry, and I think at this point what is a temporary fence or -- we have to come up with something I would think that just blends in with that whole area.

MR. HINES: The only reason why it's

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NEWBURGH PLAZA

154

fenced is it's not safe. It's not fenced because of DEC. They don't fence.

MR. DONNELLY: What's making it unsafe?

MR. HINES: It's just a construction site that's half built.

CHAIRMAN EWASUTYN: Topography.

MR. HINES: If it was paved and parking or landscaped it wouldn't need a fence.

CHAIRMAN EWASUTYN: They never improved the blacktop. It's the existing blacktop. You wouldn't want to walk through that.

MR. CANFIELD: It looks like heck.

MR. DONNELLY: The Town I suppose could proceed on the theory of a public nuisance if it's that bad it's dangerous. That may be weak. You could talk to Mark.

MS. ARENT: I could write it in my inspection report and see what happens.

CHAIRMAN EWASUTYN: Let's work with that. Karen, you look into it and make a recommendation.

(Time noted: 9:21 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 16, 2008

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

----- X

In the Matter of

ENTERPRISE RENTAL
(2008-20)

Narrative Reflecting Intended Use

----- X

BOARD BUSINESS

Date: September 4, 2008
Time: 9:21 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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ENTERPRISE RENTAL

MR. PROFACI: Finally, Enterprise Rental. We received a narrative dated August 29th of the intended use for the expansion of the current parking lot at 400 Auto Park Place.

MR. DONNELLY: As we discussed at some length at the work session earlier, the feeling of the Board, and I can be corrected or amplified if you feel the need, is whether or not what that narrative proposes constitutes the rental car agency use that is allowed under the ordinance is an issue that should best be decided by the Zoning Board. I believe you wish me to write a letter in which I focus what we see the issues as being based upon that narrative including whether or not back office type operations or non-customer related operations can in fact be a car rental agency, and we want to put the Zoning Board's focus within the context of the precedential impact of allowing the incidental part, which is the storage of vehicles of a fairly large scale, as something that others could carry out in that zoning district with far greater impact than this particular site where it

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may not be particularly difficult.

Simultaneously or shortly thereafter when Cliff tries to work something up for us you may wish to authorize a letter to the Town Board to ask them to consider if this is the type of use that other rental agencies may wish to have in that area, that appropriate restrictions of bulk and screening be added to the car rental agency use that may make uses like this more palatable and more attractive from the outside.

I would, at this time with your permission, write a letter to the Zoning Board referring the matter for an interpretation of the nature of that use.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion from the Board to have Mike Donnelly prepare a letter to the ZBA for an interpretation of the proposed use for the Enterprise center located at Auto Park Place that was described in the letter of August 29, 2008 by Frank Vigna.

MR. BROWNE: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Cliff Browne. I have a second by Joe Profaci.

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Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

I'll move for a motion to close the Planning Board meeting of September 4th.

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.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 9:30 p.m.)

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

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

DATED: September 16, 2008