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

----- X

In the Matter of

TURNER SUBDIVISION
(2008-14)

Fox Hill Road
Section 3; Block 1; Lot 3.22
R-1 Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION, SITE PLAN, MULTI-FAMILY

Date: September 18, 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
KENNETH MENNERICH
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
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

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TURNER SUBDIVISION

MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of September 18, 2008.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

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

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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TURNER SUBDIVISION

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

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

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

MS. HAINES: Thank you.

At this time I'll turn the meeting over
to Joe Profaci.

(Pledge of Allegiance.)

MR. PROFACI: Please turn off your cell
phones, paging devices. Thank you.

MS. HAINES: The first item of business
we have tonight is the Turner subdivision. It is
a two-lot subdivision located on Fox Hill Road in
an R-1 Zone, it is here for a public hearing and
being represented by Jim Raab.

I ask that Mr. Mennerich read the
notice of hearing.

MR. MENNERICH: "Notice of hearing,
Town of Newburgh Planning Board. Please take
notice that the Planning Board of the Town of
Newburgh, Orange County, New York will hold a
public hearing pursuant to Section 276 of the

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TURNER SUBDIVISION 4

Municipal Code of the Town of Newburgh and Section 185-57 K on the application of Turner subdivision for a two-lot subdivision and site plan on premises Fox Hill Road in the Town of Newburgh, designated on Town tax map as Section 3; Block 1; Lot 3.22. Said hearing will be held on the 18th day of September at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated August 22, 2008."

MR. GALLI: The public hearing notice was published in The Sentinel on August 29, 2008, in The Mid-Hudson Times on September 3, 2008. The applicant's representative sent out thirteen registered letters, eleven were returned. All the publications and mailings are in order.

CHAIRMAN EWASUTYN: Before I turn the meeting over to Mr. Raab to make his presentation on the two-lot subdivision and site plan, I'd like Mike Donnelly, the Planning Board Attorney, to explain to those in the audience where we are

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TURNER SUBDIVISION

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in the process and the purpose and the meaning of a public hearing.

Mike Donnelly.

MR. DONNELLY: This application has actually been before the Planning Board on several other occasions, but before the Planning Board takes action on a project like this subdivision it is required by law to hold a public hearing. The purpose of the public hearing is for you, the members of the public, to bring to the attention of the Planning Board matters, issues or concerns that the Planning Board may not itself have yet realized even though it has the advice of its various consultants. After the applicant makes a presentation, the Chairman will ask those who wish to address the Board to raise your hands, and when you are recognized we would ask you to please stand. The microphone looks tempting but it isn't on so you don't need to use it. If you tell us first your name, spelling it if you could for our Stenographer so we can get it down correctly, and then tell us where you live so we understand the perspective that you bring to what

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TURNER SUBDIVISION

we're addressing here this evening. We'd ask you to direct your comments to the Board. If you have a question that can be easily answered by either the applicant's representative or one of the Town's consultants, the Chairman will, at his election, direct that question to be answered. Everyone will get a chance to speak I'm sure. If you need to speak again you'll need to raise your hand again.

CHAIRMAN EWASUTYN: Thank you.

Jim Raab.

MR. RAAB: Thank you, Mr. Chairman.

This is a 5-acre parcel located at the address of 68 Fox Hill Road. It's owned by Timothy Turner. My name is Jim Raab, I'm with the engineering firm of Vincent J. Doce Associates. We represent Mr. Turner in this application in which he would like to separate his property into two separate lots, lot number 1 being 2.05 acres in size, and that will house the existing house, well and septic system that already exists on the property. Lot number 2 Mr. Turner proposes to put in a duplex. It's a roughly 1,100 square foot footprint that will be two stories and will

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TURNER SUBDIVISION

be located approximately in the middle of the existing lot. It will be located on roughly 3.25 acres of property and it will be approximately 360 feet off the road in the back of the property. The nearest properties to the north and the south is Mr. VanDemark's property and I believe Mr. -- Dr. Park's property. The houses will be approximately 360 to 400 feet away from the proposed house site on his property.

It will be served by a new well and septic system for this as the existing house already is.

This gives you a better idea, it's a little more blown up. Like I said, this driveway is going to be approximately 360 feet long. The first 180 feet of it will be paved as per our direction with both the highway department and the consulting engineer for the Planning Board.

We haven't yet inspected this site yet but we plan on doing it next week.

I'll give you a good look at what the house is going to look like. That's the house. It's a small footprint, two stories high with a full basement. It will set into the side of the

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TURNER SUBDIVISION

hill, this side of the hill here, and will sit right in front of where there used to be a stonewall -- where there's a stonewall right now. That's pretty much it.

CHAIRMAN EWASUTYN: Okay. As Mr. Donnelly had said earlier, if there's any question that anyone has, would you please raise your hand, give your name and your address at this time.

(No response.)

CHAIRMAN EWASUTYN: All right. At this time there seems to be no interest from the public, so I'll turn to our consultants for their comments. I'll start with Jerry Canfield, Code Compliance Officer. Jerry.

MR. CANFIELD: Yes. We have no fire protection concerns at this time. However, code compliance wise, though, we ask that a note be added to the plan just because the building on lot 2 is right up against the buildable area envelop. So a note just depicting an engineer will stake out prior to the foundation being dug. And also the building department is going to want a certification of that.

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TURNER SUBDIVISION

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MR. RAAB: We already have that. Thank you.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have previously reviewed the project. We requested that the topography be updated. That additional survey information has been provided.

We requested the applicant pave the driveway in the areas where the driveway is shown to be fifteen-percent grade. That's been depicted on the plans.

The highway superintendent, myself and the applicant's engineer are going to review the site next week. I don't think that meeting has been set yet but it's in the works.

We reviewed the well and septic and found they meet the applicable standards.

We have no outstanding comments.

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

MR. COCKS: We were just requesting a revised environmental assessment form from the applicant's engineer. There were just a few

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minor comments that had already been submitted.

Pat mentioned the well and septic information. That was on our comments.

This house will need architectural review. This is the first time we've seen it so we have no comments on that.

Other than that, we've reviewed the lot layout and determined everything is fine.

There are no variances necessary and the Planning Board issued a negative declaration under SEQRA.

CHAIRMAN EWASUTYN: Okay. Karen Arent, Landscape Architect?

MS. ARENT: I asked for you to consider lowering the finished floor grades that related to the topography just by one foot so that it's only like two feet above the surrounding grade, and to show a swale at the bottom of the slope on the front lawn, where the bottom slope meets the front lawn, just to get that drainage away.

The rendering shows the house fits into the footprint and it nicely camouflages the fact it's a two-family because it doesn't really look like it.

CHAIRMAN EWASUTYN: Comments from Board

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Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: There is an opportunity, before I move for a motion to close the public hearing, to receive comments from the public. Is there anyone here this evening that does have a comment before we close the public hearing?

MS. FERN: Yes, I do. I wrote -- my name is Louise Fern, I live on 9 Lakeview Drive. I wrote you the letter during the week, I faxed it to you, regarding the Jehovah Witness center. They're going to destroy a one-acre wood and put an access lane there.

CHAIRMAN EWASUTYN: Right.

MS. FERN: I wanted to know, you know, if you could take the time to explain to us why you approved that when none of the -- all our neighbors are here. We don't want it and we want to know, you know, why you approved it when it's

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TURNER SUBDIVISION

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going to, you know, really hurt our property.

CHAIRMAN EWASUTYN: Okay. It's not --
Ms. Fern, it's not an item that's an agenda item
for the Planning Board. We did receive your
letter. We did circulate it. I have a motion on
the floor this evening for the application before
us which is the Turner public hearing. So that's
what the floor is open to the public for.

MS. FERN: When can you address our
concerns?

CHAIRMAN EWASUTYN: In an honest sense,
we received your letter, it's not an item for
open public discussion so I'd like to move
forward with what's before us now and then try
and address your question. But now is not the
time for it. Okay.

MR. FERN: After the meeting you can
address it?

CHAIRMAN EWASUTYN: I would give you
the courtesy of addressing it, yes, later on but
-- and explain to you similarly in the case of
site plans it's discretionary for the Planning
Board as to whether they'd like to hold a public
hearing or they don't want to have a public

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hearing on it. In the case of Jehovah Witness the Board decided not to hold a public hearing. In the matter before us now with a subdivision the Board does not have that opportunity to waive or it's not discretionary whether they want to have it or not, it's State law that there has to be a public hearing. At the point in time that we are now there is a State law requiring it. In the case of Jehovah Witness, which had been before us for several meetings, the Board opted not to have a public hearing.

I don't want to spend any more time on it now to distract from the business before us but we will give you some history as to the hard look that was looked at as far as the potential for adverse impacts, the screening, the landscaping that went with it. But now won't be the time that we'll be doing it.

UNIDENTIFIED SPEAKER: Most of your audience in here is from the neighborhood.

CHAIRMAN EWASUTYN: I'm well aware of it. I thank you, I appreciate that. When you sit here long enough you have a sense of what may or may not be going on. I thank you for that.

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TURNER SUBDIVISION

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We'll try and --

MS. FERN: You said it was up to your discretion regarding the --

CHAIRMAN EWASUTYN: Ma'am, again I understand what you're saying. I'm not going to take any more time to explain it further now. We will later on. What I'm saying to you is we opted not to have a public hearing.

MS. FERN: That was not in our best interest.

CHAIRMAN EWASUTYN: It was the Board's decision, and I'll explain it to you later on what we looked at and what we didn't look.

MS. FERN: It was a secret decision, too.

CHAIRMAN EWASUTYN: Excuse me?

MS. FERN: I said it was a secret decision, too.

CHAIRMAN EWASUTYN: It wasn't a secret decision. It's part of the minutes. It's part of the minutes.

MS. FERN: That the public don't read.

CHAIRMAN EWASUTYN: It's part of the minutes. It's not secret. I'm not going to go

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TURNER SUBDIVISION

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back and forth. I want to be polite to you.
This Board is going to extend you the time later
on in the meeting, but I don't want to debate
back and forth what was the Board's decision.
Okay.

I'll move for a motion now to close the
public hearing on the two-lot subdivision for the
lands of Turner.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

At this point, Karen, I'd like for you
to walk us through the ARB on this.

MS. ARENT: There's two doors on the
front porch, one enters the upstairs and one
enters the first floor.

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TURNER SUBDIVISION

And then the elevation -- then the rear elevation basically -- do you have that with you?

MR. RAAB: No, I don't.

MS. ARENT: I can show you. Are you concerned with the rear? I have it right here. I didn't receive a footprint so I'm not a hundred percent sure how the house is divided.

MR. RAAB: It's basically two floors. The basement floor will go to the first floor apartment and the second floor will be one apartment. There's just one single apartment basically with the living area in the middle and the bedrooms off the living area.

MS. ARENT: Here's the rear elevation. I think it's a nice looking two-family.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No.

MR. RAAB: Can I do the ARB? It's going to be charcoal asphalt shingles, colonial crane siding, white aluminum around the trim and the fascia, and this is autumn rose brick that's going on here. That's basically it.

I thought Mr. Turner was going to be

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TURNER SUBDIVISION

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here tonight but I basically hadn't heard from him during the day so I figured I better put it together for the Board. That would save me a trip back here.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I like that architectural style for a duplex. That's very good.

MR. RAAB: I do, too.

MR. PROFACI: It's very attractive.

CHAIRMAN EWASUTYN: It reminds me of something on Grand Avenue. You know there used to be a dentist. I can't think of the name. His son bought the house.

MR. RAAB: Bill Palmerico tried one of these a couple years ago as a single family over on Colden Hill Road. It looked really nice, too.

CHAIRMAN EWASUTYN: Mike, the action, since this is a site plan because it's a multi-family, would be to grant approval for the ARB and site plan also?

MR. DONNELLY: Yes. Subdivision, site plan, ARB.

CHAIRMAN EWASUTYN: Would you give us

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TURNER SUBDIVISION

the conditions of approval?

MR. DONNELLY: I just have one question. Karen, is there any need for a landscape bond on this?

MS. ARENT: No.

MR. DONNELLY: We'll need a sign-off letter from Karen on the changes that she reported upon earlier. Bryant Cocks needs to sign off on the amended E.A.F. that he mentioned in his memo. We'll need the approval of the highway superintendent for the driveway access. We'll add a condition requiring foundation staking in the field as Jerry discussed earlier. And we'll have a standard commercial ARB condition -- not commercial but the ten-lot ARB condition that you must build consistent with the plans that are presented. And finally we'll need parkland fees for the new dwelling units that result from the granting of subdivision approval.

MR. RAAB: Right.

CHAIRMAN EWASUTYN: Any questions from the Board Members?

MR. GALLI: No.

MR. MENNERICH: No.

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TURNER SUBDIVISION

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Then I would move for a motion to grant approval for the two-lot subdivision, site plan and ARB approval for the lands of Turner.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you.

MR. RAAB: Thank you very much.

CHAIRMAN EWASUTYN: Jim, on a separate note, Pat Hines will have available I believe sometime tomorrow a sign off for the lands of Dilemme. I think that's the last one you've been

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TURNER SUBDIVISION

waiting for.

MR. RAAB: Yes.

(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: October 1, 2008

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

----- X
In the Matter of

DRURY HEIGHTS
(1994-41)

Drury Lane
Section 89; Block 1; Lot 6
R-3 Zone

----- X

ONE-HUNDRED LOT SUBDIVISION

Date: September 18, 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
KENNETH MENNERICH
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: BRIAN BROOKER

----- X

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

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DRURY HEIGHTS

MS. HAINES: The next item of business we have tonight is Drury Heights. It is a 100-lot subdivision located on Drury Lane in an R-3 Zone. It's being represented by Brian Brooker.

MR. BROOKER: Good evening. My name is Brian Brooker from Brooker Engineering. I'm here tonight with the return of an application that this Board has seen for several years, last seen probably two years ago, a year-and-a-half ago, something like that. I don't know the exact date.

I think a little history is necessary to bring you up to date. The original subdivision submission years back boiled down to a 140-lot subdivision which this is the plan for the 140-lot subdivision. The plan received a positive dec, it had a full environmental E.I.S. done, findings were made and preliminary approval was granted on the project. Subsequent to that a change in the zoning occurred which put the project in jeopardy in terms of meeting the Zoning Code. Action was taken to secure the original zoning and during that action a

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negotiated settlement was made between the Town and the developer. So there was a stipulation entered into by which the project would be redesigned from 140 lots down to 100 lots.

So this is the original configuration. Just let me give you a little -- where you are. Drury Lane is here. It used to go through. Now it cul-de-sacs at this location because the new 787 was built to the west. Two entrances were proposed, and you see the looping lot configurations. It's a density subdivision with 10,000 square foot minimum lots and a lot of open space of wetlands areas and other areas were proposed to be left in an open space condition.

The stipulation stated that the property would be developed for 100 lots, and so as a result we redesigned the subdivision. We kept some of the looping features. We cul-de-sac'd here and left more open space. Some of the lots are slightly larger taking advantage of there's more room, but still the minimum lot is 10,000 square feet. We eliminated several walls and other things that were no longer necessary because there was more land to spread

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things out.

As part of the stipulation we negotiated with the Town that the Town would take the open space. Originally during the initial plan the concept was perhaps that the open space would be owned by a homeowners association, but as a result of the final settlement the Town will be taking the open space as Town land.

We have redesigned it. We have the entire -- I think there's 73 pages to the subdivision here. I don't know if you need me to go through all that. Essentially it's the same subdivision with less lots, public water, public sewer. We did get the public water and sewer district extensions from the Town Board. We formed a drainage district and a lighting district.

It's currently at the Orange County Health Department to get the necessary Health Department approval. We have not received that yet but we expect that very soon.

We have a waiver request to make to the Town Board with respect to some of the vertical curves within the road system. The Town's

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standard road system has like about a 45 mile-an-hour speed limit with the vertical curves and we felt that that was a little too much for a neighborhood road system. Maybe it should be designed more like a 30 mile-an-hour road system. So we will -- we had a couple that didn't meet what's called the AASHTO standard, which is the highway design standards, but we agreed with your consultants that we would redesign the subdivision in one or two of the verticals curves to make them comply and then apply to the Town Board for that waiver.

I think that was the last item that we really need to get for final approval.

CHAIRMAN EWASUTYN: Okay. Are you saying here then this evening you're here for a final approval?

MR. BROOKER: Well, you're the one to grant it to us. We'll take it subject to the conditions. I don't know what your policies are with respect to that.

CHAIRMAN EWASUTYN: Were there revised maps that were to be submitted based upon the one opportunity that the consultants had to make

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DRURY HEIGHTS

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comments on the maps, and have they been provided?

MR. BROOKER: No. We've been working on them since the meeting. We have several issues to work out with the consultants. We have suggestions from them as to how to modify the plans. Some of them were done. We had an early consultants' meeting then late last -- this week I guess. Maybe even early this week. We got the final comment letter from Creighton, Manning which have other issues that were brought up that we need time to have our traffic consultant address with him before finalizing the plans for the subdivision.

CHAIRMAN EWASUTYN: Mike Donnelly, our Attorney for the Planning Board?

MR. DONNELLY: I think there are several things that we need to decide in terms of how we want to go. The first thing that the Planning Board needs to do, and I think we discussed it earlier at work session, is to revise our Findings Statement in view of the changes to the project and the downward impacts. Bryant Cocks will work on that. That needs to be

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done before we could issue any resolution.

The next decision the Board needs to make is whether it feels it necessary to hold another public hearing on this again reduced subdivision.

And then the third is a question of you, and that is given where you are in terms of your other agency approvals, are you asking that we issue a revised preliminary resolution or do you just want to widdle away the final checklist of items, and should I prepare a conditional final resolution that can be voted upon after you have the City of Newburgh sewer flow letter, the K-value waiver and Health Department approval? The stipulation talks in terms of preliminary but I don't know, given where you are in the process, that that makes sense any longer.

MR. BROOKER: Well, I certainly think that the plan is beyond a preliminary approval type stage, but I'll take whatever you give me.

MR. DONNELLY: Well we can't give you any resolution until we amend the Findings, and that's a document that needs to be filed with the DEC. What I'm asking is in anticipation of when

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we next meet, should I be preparing a preliminary -- an amended preliminary resolution or should we simply work, despite what the stipulation says, toward the ultimate step which is a final resolution and include only those unresolved items that may exist at that point in time? I don't know that you need to answer it for us this evening but I need to have some guidance, otherwise we're going to have to go through a two-step process, and I don't know that the Board or you need to do that.

MR. BROOKER: Well I would certainly think that if all of those technical issues are resolved, then maybe a combined preliminary and final would be appropriate. If it's going to take out any length of time, then I think I'd prefer a preliminary and then a final even if they're a month apart or a couple weeks apart. The stipulation does have timeframes. I don't remember what they are exactly.

MR. DONNELLY: The three items that I think prevent the Board from giving final this evening are you need to do the Findings, you need to have Health Department approval, I think the

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K-value waiver approval but I think that's simpler, and the sewer flow letter from the City of Newburgh. Once those are in hand I think the Board can give you conditional final approval.

MR. BROOKER: I think the sewer flow letter was taken care of.

MR. HINES: We may have that.

MR. DONNELLY: So we've got Health Department findings and the K-value waiver.

MR. BROOKER: Correct.

MR. DONNELLY: As soon as they're done I think the Board would be ready to act after the Findings have been issued. So I see no reason then, unless you think it's going to be a long time until the Health Department acts, that it makes any sense to go through two steps when it can be done in one.

MR. BROOKER: I agree with you.

MR. DONNELLY: Okay.

CHAIRMAN EWASUTYN: The first question I'll ask the Planning Board Members is do they want to have a second public hearing on this?

MR. GALLI: No.

MR. MENNERICH: No.

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DRURY HEIGHTS

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MR. PROFACI: No.

CHAIRMAN EWASUTYN: And myself no. So that answers one question.

MR. DONNELLY: All right. So then we'll have the Findings at the same time that you are working on the final comments from the consultants, and when that's resolved and you have your Health Department approval, I suggest that we calendar it at that point for consideration of the final resolution of approval.

CHAIRMAN EWASUTYN: You did say earlier in the meeting with the stipulation there would be or there could be a second consultants' work session.

MR. DONNELLY: There could actually be two of them for preliminary and then two of them for final. I think what I'm suggesting is given that the stipulation was entered into some time ago where it appeared clear that we would need to do both preliminary and final, that things have changed and now going through two approval processes doesn't seem necessary. I would think that the spirit of this shortening is that we

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should at least have the additional work session if required, and it may be that the give and take that's occurred will avoid the need of it. And if yet another iteration of the plans occur, then we can have a third one. From what we did at the first work session and what's likely to happen in the coming weeks, I don't think we're going to need to have another work session.

CHAIRMAN EWASUTYN: How important is it to have the revised maps, and how much time will our consultants need to review those revised maps, and when will we be receiving them?

MR. BROOKER: Well we're currently working on them. I think most of the physical changes that the consultants would need to see are done. So I would say within two weeks you will have those.

The other procedural things -- I don't know how long it would take to get the Town Board decision and to get the, you know, Health Department decision because that's a third-party decision that I don't control when I'll receive it.

CHAIRMAN EWASUTYN: Ken Wersted, the

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DRURY HEIGHTS

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procedure for applying to the Town Board and Jim Osborne for a waiver on the K-values, how does that work?

MR. WERSTED: I'm not a hundred percent on the procedure for it but I know Jim Osborne, whenever there is a waiver application, he'll review it and sometimes defer to us to review the K-factors and issue a letter whether they meet the applicable Town standards and/or the AASHTO standards. We can do that very easily. We've already started that process here. There's a couple that are very close to meeting the Town standard. I think most of them meet the standard for a curve but there's a few just short of the sag curves. So with those new plans addressing those factors it's very simple for us to issue a letter stating that some of the curves are lower than the Town standards but they need an applicable term of standard. I don't know precisely how the applicant gets here or, you know, to the Town Board. Jim Osborne, I would defer to him for the procedure.

CHAIRMAN EWASUTYN: Pat Hines, would you like to add anything?

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DRURY HEIGHTS

MR. HINES: Typically the applicant would send Jim Osborne a letter with a set of plans stating that they are requesting that waiver and Jim takes it to the Town Board and, as Ken said, often through Creighton, Manning's office.

CHAIRMAN EWASUTYN: Any comments from the Board Members?

MR. GALLI: No additional.

MR. MENNERICH: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Any comments from you, Brian?

MR. BROOKER: No. Sounds clear to me.

CHAIRMAN EWASUTYN: Thank you.

MR. BROOKER: Thank you very much.

MR. WERSTED: John, can I just add something? The applicant also noted that some additional traffic information sounded like it was going to be coming in. I think that's in reference to the last few comments of mine where the original plan called for 140 units, it called for the coordination of a number of traffic signals, and also a couple of turn lanes. Given

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that the project has reduced to 100 units, DOT has taken out one of those traffic signals, and Drury Lane interchange has opened, and Drury Lane south has now effectively become a dead end. I think that's spurring on the applicant's desire to re-look at those traffic impacts. So if I'm understanding correctly, we'll get a memo of some sort addressing those issues.

MR. BROOKER: Yes. I asked Mr. Grealy from Collins Engineers to contact you and to review the revised traffic report in anticipation that we're going to do new findings. Certainly the facts on the ground today are different than they were when the original report was prepared, and we did prepare it what if the interchange gets moved and what if the interchange didn't get moved. But now we know what the real situation is. Plus the subdivision was 140 lots and the traffic impacts were all based upon the 140 lots. Now it's obviously significantly smaller so the traffic impacts -- I asked him to re-look at it in light of your memorandum, discuss it with you and see if we could come to a resolution of what the off-site public improvements required would

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be.

MR. WERSTED: Excellent. We'll look forward to that and assist Brian in drafting the Findings.

CHAIRMAN EWASUTYN: Okay. Thank you.

Mike, we're okay for now?

MR. DONNELLY: Yes.

(Time noted: 7:35 p.m.)

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

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

DATED: October 1, 2008

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

----- X
In the Matter of

BROOKSIDE FARM PLACE
(2007-48)

Northern side of Brookside Road, west of
intersection with South Plank Road
Section 97; Block 1; Lot 20.2
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: September 18, 2008
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

----- X

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

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BROOKSIDE FARM PLACE

MS. HAINES: The next item of business we have tonight is Brookside Farm Place. It is a conceptual site plan located on the northern side of Brook -- northern side of Brookside Road, west with the intersection of South Plank Road in an IB Zone. It is being represented by Justin Dates.

MR. DATES: Good evening, Mr. Chairman. Justin Dates from Maser Consulting. I'm going to go through the changes since the last time we were before the Board.

CHAIRMAN EWASUTYN: Okay.

MR. DATES: Just to re-orient everyone with the plan, to the north here is Interstate 84. On the south side is Brookside Farm Road. To the west we have the Quassiack Creek. From our last meeting we've -- based on the consultants' comments we've revised the plan to what's before you today.

I'll start on the east end of the site and kind of work my way around to the west. Starting with the parking furthest out on the east here, we've re-oriented the parking so they would be facing Route 84 as opposed to out onto

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Brookside Farm Road.

Moving in, we've realigned the access entrance here just to be better coordinate with the drive aisle that's in between the parking here. Before it was slightly wider and not so channelized to that access. We cleaned that access point up.

Also, a major change to the project was this was previously determined as a front yard when in actuality it is a rear yard setback. So it was previously 50. It has been modified to the 60, the rear yard setback. That in turn altered our building footprint. The amount of square footage for the building remained the same, just the outline building footprint was modified to fit within these new setback lines.

It is still a three-level building, the first level having its main access from this parking area here, it's about 16,000 square feet, and that would be a retail use. The middle level is going to be office space, about 4,000 square feet. Then the lower level is about 6,000 square feet and again retail. So that's the breakdown of the use square footage.

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Also down here, the retail adjacent to the west parking, what the building is going to essentially look like is the second and third floor will be kind of cantilevered over an access walk and entrances to the lower retail spaces. That is depicted on the site plan by a dashed line where that would be approximately.

Moving around, the drive aisle adjacent to the building on the west side here was increased to 26 feet based on Mr. Canfield's comment about the New York State Fire Code. The aisle up on the eastern side remains 24 because it's only one level below -- 30 feet I believe is the threshold. It's only going to be about 18 feet high, the first level roof line.

Also to move around, on the southern side of the building we've enhanced and enlarged the gathering area, the courtyard area which had its main access out on the second level. It will provide connections from the upper and lower parking lot and also just a gathering area for break time for employees of the building.

We clarified the handicap spaces. There was a discrepancy in what was provided in

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BROOKSIDE FARM PLACE

the plan and the chart. That's cleared up.

Also the -- I think from -- I just wanted to go back to just the evolution of the plan, the previous proposal for this site and what we've developed to date. I think we've come quite a way working with the consultants and the Board to what we have today. We've taken away some 19 parking spaces that were previously along Brookside Road. Some 270 feet of retaining wall has been cut back. One access was removed as opposed to the previous three.

I think that the -- I know the overall street scape or how Brookside Farm appears from this project is in question. I think we've provided good areas for screening and landscape, framing of the building from east and west sides of the approach from Brookside Farm Road. I know that's about what we're here to discuss tonight.

We would like to tonight move ahead and do the -- you know, do the engineered plans, provide the detail that's going to be needed to show that we are proposing all these things that the consultants are looking for. That's it.

CHAIRMAN EWASUTYN: We discussed at our

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work session and I think you defined it very clearly, we're all looking to move forward with the project. The question is twofold really. The aesthetics, your concept of what the aesthetics are and how they may look, the Planning Board's concern about the aesthetics and how they may look, and the consultants' comments. The project has come a long way. We're not at the point right now to grant conceptual approval. We would like to think we're at a point, if the Board agrees, to move this -- to set this up for a public hearing -- excuse me, for a work session so that between the consultants and yourself, and they knowing the flavor of the Planning Board, we could define the aesthetics more clearly and then move to grant conceptual approval.

The one question we also have, which is sort of outstanding and we would like to know at this point, is if you could provide us with some information. Do you know who the users might be of this property? It's really sort of the question that drives the use and the intensity of the use. Can the square footage be reduced somewhat if it were more office use, professional

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office?

Is that correct, Bryant? The need for the parking would not be as great as it's being proposed now for a retail use.

So what's driving the need for the retail? The other thing the Board -- again, you have that option. It's an interesting site to have a retail use for. Can you define any of the uses or the potential uses for it.

MR. DATES: Right now there isn't any potential use -- there's potential users, none of them definite right now. Obviously moving forward as we get closer to approvals, you know, that will be more finalized. Hillside feels that, you know, this location, the square footage and uses is a good use of this site based on their experience.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: I'm just a little confused because there's nothing in that area that would generate retail. I mean office I could see, it's right off 84 and you have the Pepsi plant on one side, that's truck traffic, and the plant and

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BROOKSIDE FARM PLACE

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you're across the street. Nobody I don't think drives down that road for retail. I might be mistaken but it's just a weird use for the retail to be down there. I was just curious and wondering if there was an actual tenant that they had in mind that was going to go there or if they were just speculating to put retail there hoping it will take off because of the project across the highway.

MR. DATES: Right now there's no potential.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think one of the concerns we discussed in the work session was the amount of parking could vary depending on what your uses for the building were. Even in a retail store, if part of the retail store is warehouse you end up with less parking being needed. By reducing some of the parking you can better -- have a better presentation of the building to the road and the public.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm curious, what experience does Hillside have with respect to a

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BROOKSIDE FARM PLACE

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somewhat isolated building like this being used for retail purposes? This is a destination location. Someone has to go there on purpose. It's not -- you know, it's not a mall, it's not an impulse. I'm curious what experience are you referring to?

MR. DATES: Their professional experience. I mean --

MR. PROFACI: You don't have a particular project?

MR. DATES: Not a particular -- not specifics. Just their professional experience in developing. Otherwise I don't think that they would propose what they are and looking to construct it.

MR. DONNELLY: John --

CHAIRMAN EWASUTYN: I'm going to bring you to that point in a second. I think I know what you're going to raise, and I'll bring you to that point in a second. I'm going to try and assume that Mike Donnelly and I are thinking the same, and that would be the importance of the use as it relates to parking. Is that correct? Good, we're on the same wave length. Thank you.

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BROOKSIDE FARM PLACE

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Why don't you then.

MR. DONNELLY: The reason for the questioning is this: If you received an approval upon the representation of that amount of retail and that amount of office, you have locked those in, and if the owner of the property later found that he could not fill that retail space, you could not shift it back to office because you couldn't meet the parking requirements.

MR. DATES: Understood.

MR. DONNELLY: That's why it's so crucial here. One of the thoughts would be that if you didn't know the mix and you reduced the footprint of the building such that if it were all office you would meet the parking requirements, then you'd have all the flexibility needed for a mix of office and retail. If on the other hand you had specific retail users who might, as Ken Mennerich suggested, have a warehouse or storage component that could allow you to make this parking work, then you might be able to stay with that size building. We just want to make sure that you understand that if you move forward and receive approval for this

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BROOKSIDE FARM PLACE

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building with those mixes, then it's forever locked in, and that could be potentially very difficult for your client in the future.

MR. DATES: Understood. We would have to come back before the Board.

MR. DONNELLY: You can't shrink the building after that, --

MR. DATES: Correct.

MR. DONNELLY: -- so you would be stuck with that mix. It can't be changed.

MR. DATES: Right.

CHAIRMAN EWASUTYN: Before I move for a motion to set this up for a consultants' work session to clearly understand and define the aesthetics of the site, I'll turn to Bryant Cocks and Karen Arent if they want to add a few more bullets to that motion.

Bryant Cocks, Planning Consultant?

MR. COCKS: With our last set of comments the applicant came back and also took Jerry Canfield's comments. He revised the access drive on the bottom to meet the State fire code, so he's already accomplished that.

There are the Town of Newburgh design

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guidelines which are in place which state that parking should be in the rear -- in the back of the buildings. I know this is a kind of weird site because of its shape and there's really no way to put any parking behind the building, so the Planning Board is going to have to discuss, once it sees the revised concept plan, whether to waive the design guidelines. You have to do a good job to screen the parking from the road and provide landscape to mitigate some of the effects.

There should be a truck circulation plan. The current configuration shows trucks will be able to access the site.

They revised some of the parking as mentioned and also moved one of the landscape islands out of the drive aisle.

We're going to need a location map next time.

If the Planning Board feels the concept is ready, we'll declare our intent for lead agency. There's a bunch of outside agencies that will need to approve this project, County Planning, the Thruway Authority, DEC, Army Corp

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BROOKSIDE FARM PLACE

of Engineers, and the Town of Newburgh Town Board for access to the sewer district.

So the applicant has a lot of work in front of him, and coming in for a consultants' work session I think would be a good idea.

CHAIRMAN EWASUTYN: Karen, any bullets you want to add to the motion to set this up for a consultants' work session to discuss the aesthetics of the site?

MS. ARENT: Yes. As Bryant said, the design guidelines mention not allowing parking in the front of the building. In the past the Planning Board has allowed parking with a stonewall. If there's adequate space to screen and do a good job, that's what you're going to have to provide us.

MR. DATES: Okay.

MS. ARENT: I think the five spaces right in front of the building where you're cutting out, I think there's not enough space to provide screening for those as well as some of the spaces in the lower right corner. We're happy to work with you to try to figure out a way to meet the intent of the guidelines.

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Also, if you got my comments we can work with you on the five-percent rule to try to find a place for some of the landscaping so that some of the islands maybe could be eliminated in favor of parking. So we're happy to work with you to figure out a way to meet the intent of the guidelines. Right now this plan doesn't meet the intent.

CHAIRMAN EWASUTYN: Would any of our consultants like to add anything at this time? Pat Hines?

MR. HINES: We're awaiting the more detailed engineered plans. I have a couple comments. I know the applicant's representative has them. We'll work with them at the consultants' work session.

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

MR. WERSTED: We're still waiting -- most of our previous comments have been addressed and we're still waiting for the traffic study, which when that comes in we'll review that.

CHAIRMAN EWASUTYN: I'll move for a motion to set this up for the next available

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BROOKSIDE FARM PLACE

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consultants' work session.

Bryant, what would be the date on that?

MR. COCKS: Tuesday, the 23rd.

CHAIRMAN EWASUTYN: Tuesday, the 23rd
of September.

MR. COCKS: This Tuesday, the 23rd.

MR. DATES: When?

MR. COCKS: 2 o'clock.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

Thank you.

(Time noted: 7:52 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: October 1, 2008

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

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In the Matter of

ROUTE 9W SHELL
(2008-22)

NYS Route 9W & North Plank Road
Section 84; Block 1; Lot 1.2
B Zone

----- X

CONCEPTUAL SITE PLAN

Date: September 18, 2008
Time: 7:52 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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ROUTE 9W SHELL

MS. HAINES: The next item of business we have tonight is Route 9W Shell. It is a conceptual site plan located on Route 9W and North Plank Road, it is in a B Zone and being represented by Charlie Brown.

MR. BROWN: Thank you. This is an existing three-quarter acre site on North Plank Road and Route 9W right by the off ramp for Route 84 eastbound from 9W. It contains a small convenience store which is very close to the property line that adjoins North Plank Road, an existing canopy that's about four feet off the property line on 9W.

The proposal is to demolish the existing building and build a 3,000 square foot combined retail building with a drive-through Dunkin Donuts with the stated parking and add two gas pumps. There's existing right now four pumps. We would be making it six pumps. That's the summary for the site plan.

With me tonight I have Phil Grealy, the traffic engineer, and John Adams, the attorney for the client.

MR. GREALY: Good evening. Phillip

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ROUTE 9W SHELL

Grealy, John Collins Engineers. We were asked to look at the site in terms of the proposed modifications and also the potential for improving the access to the gas station and the proposed Dunkin Donuts.

This is just an aerial photograph of the site. Route 84, the off ramp is here. This is North Plank Road. This is the existing traffic signal. Driveways into the site, we have two driveways to 9W and one drive to North Plank Road.

Right now traffic at this intersection, there's a heavy left turn down towards the waterfront. We, in early discussions with the Department of Transportation, explored the possibility of modifying this traffic signal, and the intent of it would be right now traffic that would want to head back north on 9W or back to 84, there are no left turns allowed exiting on the eastbound approach and traffic therefore comes out and crosses multiple lanes. We have, you know, four lanes of traffic southbound in order to cross to get back into the northbound direction. Similarly, traffic northbound on 9W

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wanting to get in crosses that traffic, and that creates a lot of turning conflicts under current conditions.

So we met with the Department of Transportation and they asked us to look at several items. One was to look at the traffic volumes at each of the signalized intersections, North Plank, the on/off ramps, and then of course at the Route 32 intersection on the north side of 84, and to see in terms of the signal operation there whether there was a potential to make this modification.

We were also, after our initial meeting with them, asked to explore the possibility of doing widening on North Plank Road approaching the traffic signal since this is also a very heavy turning movement. Based on that we did all the traffic projections. You know, the existing conditions and then projections of future. Based on my discussions with DOT just today -- we've been delayed because the original person who was reviewing this had been reassigned. So we've been kind of in a state of flux for the last two months. I received a response today to move

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forward to the next step.

So essentially we wanted to know whether or not there was either going to be a yeah, nay or, you know, yes it makes sense to consider. Based on that conversation they've asked us to further this plan.

The improvement here of getting an additional lane, at least at the intersection, would allow this to become a dual right turn off of North Plank Road onto 9W, and that would allow that to operate in the same signal phase as the dual left heading down towards the waterfront. By doing that the amount of green time that we would need to take from the signal operation could be reduced so therefore not impacting the operation for the corridor. That's really what they're concerned about. The benefit of course is that we would now control these driveways so we would not have traffic exiting across the multiple lanes, it would be safer, more orderly, and that traffic would then exit out onto North Plank, come to the traffic light and be able to make a left turn.

Also as part of that suggested that we

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look at re-striping to provide a left turn so that traffic northbound on 9W could potentially come in and access the site.

So at this point we need to do a little bit more homework. We have the traffic data, we'll provide it to you or your consultant and to the Board. We anticipate to have, you know, some type of a concept approval from DOT and then we'll move into the hard engineering.

Unfortunately from my client's standpoint it looks like with these improvements we may have to also upgrade the traffic signal. So we're looking at a fairly significant cost to do the widening, the re-striping, the reconstruction of the approach, the upgrading of the traffic signal and potentially even replacing the traffic signal because of the added heads and the positioning of the poles relative to the turning movements.

That's pretty much where we are. We've looked at, you know, the added traffic of course from the Dunkin Donuts and we were just getting into finalizing all that. There was no sense of going much further unless we were able to come up

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ROUTE 9W SHELL

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with a solution here. It looks like we're able to go in that direction.

CHAIRMAN EWASUTYN: Comments from the Board Members from Mr. Grealy's presentation?

MR. GALLI: Where would the extra lane come -- of traffic coming out of the City of Newburgh, where would that start? Stone Lane or Stone Road? Where that house is?

MR. GREALY: Pretty much. We're providing a right-of-way through there. We're looking at probably in the order of 150 feet from the intersection.

What will happen is this is Stone Lane, Stone Street. Just beyond that point is where we seem to have enough right-of-way because we also have to rebuild the sidewalk and, you know, get a good enough radius coming onto 9W. So that looks like about the extent we would be able to get. That would allow vehicles to stack and be able to turn at the same time as the southbound traffic.

MR. GALLI: And you only have one entrance off of 9W then?

MR. GREALY: No. We would still have -- at least at this point we would still have

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these two access points. This one -- well, the plan is -- DOT hasn't told us exactly what they want to do with this. We looked at the possibility of eliminating this all together. They weren't sure whether they wanted that to remain as a right turn out. The complication is that people try to cut across. We're still waiting for the final input on that but the idea would be that exiting traffic from our perspective could exit out and all be handled at the traffic signal, and then this driveway would be, you know, controlled.

MR. GALLI: The only other concern I would have is going north -- going south on 9W, people coming to that light there making a right and cutting through the development in the back.

MR. GREALY: In through here?

MR. GALLI: Right. Actually they can do that.

MR. GREALY: Right now they can make this right. They can't come straight across. On this plan we actually were looking at whether or not we would allow a straight across movement. Basically what DOT is saying is they want this to

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ROUTE 9W SHELL

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be a double right. There would be no through movement to cut through into the neighborhood here. You know, this would still remain.

The one thing that would be changed in terms of being able to get into the neighborhood would be the northbound left turn.

MR. GALLI: They could have done that before.

MR. GREALY: It could have been modified. Based on my conversation today, this would not be a through and a right, it would be a right and a right just as it is today. It would just be a two-lane approach. So there would be no through traffic through the neighborhood.

MR. GALLI: I like that plan but I'd like to see one entrance eliminated on 9W. I still think you're going to have traffic.

MR. GREALY: They'll try to go out that way. I mean they haven't given us the determination but I think based on what you're saying and my conversation today it makes sense.

MR. GALLI: That's all I have, John.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I don't have any

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questions at this point. I think, you know, it's a very busy intersection.

MR. GREALY: Absolutely.

MR. MENNERICH: What you've outlined seems like it should have a chance.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I don't have anything further, John.

CHAIRMAN EWASUTYN: I don't have anything further myself.

Ken Wersted, would you like -- Traffic Consultant, would you like to add anything?

MR. WERSTED: Nothing substantial. I think Mr. Grealy covered pretty much all of our comments on this subject, including waiting to hear back from DOT and progressing with a study of that.

We do agree that there should only be one entrance off of 9W, that being a right-turn in only as pretty much depicted on the plans that they have here.

The one comment about that is that the right-turn in only still seems to be about 25 feet wide which will easily accommodate the

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traffic. So that can be reshaped pending further DOT review and so forth to better promote just a right-turn in only and funneling traffic exiting out to the side road, Plank Road. It's coming out to the traffic signal.

MR. GREALY: Fine.

CHAIRMAN EWASUTYN: Thank you. I don't know who to address. I think we'll go back to Mr. Brown at this point. There are three planning items that are up for discussion this evening. One would be the intense use of the property and how that is compatible with the design guidelines. The second question is there will be a need for area variances from the ZBA, which the Board would be in a position to make those referrals. And then there's another action which the Board is not in a position to make an action on, and that would be for a use variance, okay.

At this point I'll turn to Mike Donnelly and Bryant Cocks to discuss that.

MR. DONNELLY: John, I know you sent me a fax today. I didn't get a chance to get back to you.

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MR. ADAMS: And I revised it. You didn't really say what the issue is. The issue is whether I can sell coffee through a window on the side of my building.

MR. DONNELLY: It's the drive-in. Just so you're clear --

CHAIRMAN EWASUTYN: Can I -- let's all take a deep breath. Number one, I don't know who you are.

MR. ADAMS: I'm sorry. My name is John Adams, I'm the attorney for the applicant.

CHAIRMAN EWASUTYN: Number two is you're standing here tonight for whom?

MR. ADAMS: The applicant.

CHAIRMAN EWASUTYN: Who else --

MR. ADAMS: I thought Mr. Brown had introduced me.

CHAIRMAN EWASUTYN: I think what I'm saying also is while you're faxing something to Mike Donnelly you're under an obligation to also bring that information to the Planning Board.

MR. ADAMS: I'm happy to comply with that.

CHAIRMAN EWASUTYN: We're at a great

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disadvantage because you're ready to say Mike I sent you something to discuss something. I'm sitting here saying I have no --

MR. ADAMS: I apologize for that oversight.

CHAIRMAN EWASUTYN: I think it's more than an oversight. We as a Board need information to make decisions, so we're first and foremost in receiving information. Mr. Adams, I just want to set that for now.

MR. ADAMS: Fine. I appreciate the comments.

There is a significant issue here that I want to address -- I want resolve tonight and that is that one issue in terms of the manner of the delivery of the product so to speak. I discovered this evening that you have -- you use the word fast food in your bulk regulations. When you go to your definition you use a different term which is drive-through. That's fairly explicit. I need more time to review that issue because --

MR. DONNELLY: What you also need to be aware of, and I didn't realize your fax was on

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this project until I saw you walk in this evening, the Zoning Board has had a chance to deal with this issue once before. It has determined that a facility like, and I think it was actually a Dunkin Donuts that was involved, that has a drive-in window shifts from an eating and drinking establishment or eating and -- what do they call it?

MR. ADAMS: Eating place.

MR. DONNELLY: Eating and drinking facility to a fast food one. In other words, if you drop the drive-in window your eating and drinking establishment, which is a permitted accessory use to the gasoline service station as your primarily proposal here. By having the drive-in window, in the view of the Zoning Board that Dunkin Donuts becomes a fast food restaurant which is not allowed either as a primary or as an accessory use in the B Zone. That has been consistently followed in other Dunkin Donuts franchises. So you need to deal with that issue either by use variance or --

MR. ADAMS: Eliminating the window.

MR. DONNELLY: Or eliminating the

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window solves the problem.

MR. ADAMS: I understand that.

CHAIRMAN EWASUTYN: We'll take some time to look at the site plan as far as the design guidelines, what is being proposed.

Bryant Cocks?

MR. COCKS: In the design guidelines there's an actual specific example of a gas station, and in that they show the canopy and the parking being in the rear or in the back of the building so that the building is more up towards the street frontage, it's more of the focus of the site and that the architecture could be on display. This site is actually exact opposite with the canopy being only four feet from one of the front yards, from 9W, which would require a variance if it stays that way. We would like you to take a look at maybe redesigning the site to pull it forward and try to tuck the building, you know -- kind of at the triangle, make that more of the focal point. If you're going to remove the drive-through window I know it's going to be a lot easier to accomplish. So we'd just like you to take a look at maybe producing a couple

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different sketches of what you guys can accomplish on the site, which is going to be the best option in regards to conforming to the design guidelines.

As mentioned, the canopy would require a variance. It's only four feet from the setback. It needs to be sixty. So that's going to be very hard to accomplish having that in the front.

You also need to demonstrate the eighty percent lot coverage. It looks like there's not much landscaping on site and we're concerned that that might not be able to be met.

A location map is going to be needed.

You guys mentioned the two accesses on 9W. That's going to have to be worked out to which one is -- if the second one is actually going to stay.

We're going to need to look at signage. Right now there's a sign that's not in conformance with the Zoning Code that's on the site, the Shell sign with internally lit numbering. We're going to have to look at that. I think there is a sign in the back. Is that

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what you guys are proposing for your sign?

MR. BROWN: The existing pole sign?

MR. COCKS: In the back by the
dumpster.

MR. BROWN: That's the existing sign,
the one we're showing by the dumpster. That's
the existing Exxon sign.

MR. COCKS: Is that appropriate to
change?

MR. BROWN: Yes. To represent the
Shell. Yes.

MR. COCKS: The dumpster location,
right now I don't know how a garbage truck would
be able to back into that to lift up the
dumpster. It looks like that's going to be a one
way. I didn't know how that was going to be
accomplished.

MR. BROWN: Most of those now are front
loaders, so it's set up for that.

MR. COCKS: Okay. Ken Wersted
discussed the traffic. You guys are also going
to have to look, if you do decide to keep the
drive-through window, you said ten cars can be
stacked. That's really from the actual window

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where you pick stuff up. From where you order from it's only about three cars are going to be able to sit there and then it's going to be right in the middle of where the handicap parking spaces are.

We're going to need to get a lighting plan.

Just in the E.A.F. it stated the building was going to be 3,000 square feet and in the narrative it says 2,975. That needs to be coordinated.

There's multiple outside agency approvals that are going to be needed.

MR. DONNELLY: It's actually a Type II because it's under 4,000 square feet, so there won't be a need for that level of formal SEQRA compliance.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: The new proposed structure will be required to be sprinklered. That's as per the Town of Newburgh fire prevention guidelines.

It appears to be there's two parcels here that perhaps need to be consolidated. As

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ROUTE 9W SHELL

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Pat and I were just discussing, one might be a DOT taking. The tax maps show two separate parcels and I'm not clear what it is.

MR. BROWN: There was actually quite a bit of confusion on it before we got the actual survey done. It is two parcels and it wouldn't be a problem consolidating those.

MR. CANFIELD: I don't think we need to talk about the signage at this time.

CHAIRMAN EWASUTYN: I think we should one more time for the record.

MR. CANFIELD: Currently there is a sign on site that's in violation. It's unrelated to this application but it is in violation. There has been an order to remedy issued. We would hope that the applicant would move forward in pulling it into compliance.

MR. ADAMS: We have filed a notice of appeal with the Zoning Board on that particular issue, but we are exploring ways of also complying.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Some of my comments are the

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same as the others. The only thing I have is when we take a look at the drainage, the building is located in what is now a large swale or ravine. We're going to take a look at how much water actually goes there. Right now it shows a twelve-inch HDT pipe. It looks like down gradient from there there is two large diameter culverts at the 84 right-of-way. We'll be awaiting the stormwater report and certainly do a field review of the site.

That's all we have right now. Everyone else has repeated some of our comments.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: My comments are similar to Bryant's. If you can study various ways to help make this project conform better to the design guidelines and submit various options. When redesigning the project the Planning Board, in accordance with the buffer regulations, can require screening of parking areas, service yards, et cetera from nearby residential uses. Since the existing woods is going to be removed in order to build this project, you have to

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either provide space for screening or figure out a way -- you need to provide space for screening, and if it's vegetative screening it has to be at least ten feet. You can think about a fence as well to better screen the back. And also pay attention to the back of the facade of the building. Since it's a very visible facade, the architecture should also be considered during the SEQRA -- before a SEQRA determination. That's it.

CHAIRMAN EWASUTYN: Questions?

MR. BROWN: No.

CHAIRMAN EWASUTYN: Mr. Adams, questions?

(No response.)

CHAIRMAN EWASUTYN: Just for a matter of fair understanding, generally speaking we like to have any submissions from an applicant ten days prior to the meeting. In the case that there's a need to provide some information, ideally it would be nice to have it the Friday before the Thursday of the meeting. I think life is such that you have to be flexible. In all respect for those, no later than the Monday

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before the meeting. This Board has an arrangement with their consultants that the Friday before the meeting the consultants have their review comments for the Planning Board Members to pick up. The Planning Board Members generally come in on that Friday or that Monday. It's a Board policy that you receive their comments on Wednesday. What's most important is this Board and all their consultants are cc'd on every bit of information. It is a thinking Board, it's a Board that's alive and we're all part and parcel of the planning process. I respect you as an attorney and all other professionals but we're a working group of people, we're not individuals corresponding with individuals.

MR. ADAMS: I'll certainly observe those guidelines.

CHAIRMAN EWASUTYN: Excuse me?

MR. ADAMS: We'll certainly observe those guidelines.

CHAIRMAN EWASUTYN: It just makes sense. I think anyone sitting up here, to hear a conversation that may have happened between you

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ROUTE 9W SHELL

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and someone else just would feel incomplete or left out. I don't think anyone wants to be part of an active body that feels like they're being left out.

UNIDENTIFIED SPEAKER: Amen to that.

CHAIRMAN EWASUTYN: Thanks for the blessing.

MR. GALLI: Charlie, on the sign, that forty, fifty-foot sign, the Exxon sign way in the back in the woods, when you redesign the project is that sign going to stay?

MR. BROWN: That will stay and become a Shell sign.

MR. GALLI: So you're going to have two signs?

MR. BROWN: Just the face will be changed.

MR. GALLI: So you're going to have two signs?

MR. BROWN: Right now that's -- as far as the proposal, that would be the only sign. I mean --

MR. GALLI: You have the one huge one in the back buried by the woods, the woods is

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ROUTE 9W SHELL

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covering it, and then you have the lit one.

MR. NESHEIWAT: Might as well keep it.

MR. GALLI: The other one is pretty
close.

MR. NESHEIWAT: We'll take the big one
down.

MR. GALLI: The one covered by the
trees?

MR. NESHEIWAT: It's too muddy trying
to get it down.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Anybody else?

(No response.)

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:17 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: October 1, 2008

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

----- X
In the Matter of

RE-SUBDIVISION OF LOT #33 OF ORCHARD RIDGE
(2008-21)

North side of North Hill Lane
Section 23; Block 2; Lot 52
R-3 Zone

----- X

CONCEPTUAL SKETCH PLAN

Date: September 18, 2008
Time: 8:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
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MS. HAINES: The last item of business we have tonight is the re-subdivision of lot 33 of Orchard Ridge. It is a conceptual sketch plan on the north side of North Hill Lane, it is in an R-3 Zone and being represented by Richard Barger.

MR. BARGER: This is a proposed re-subdivision of a lot on a map that was filed for Orchard Ridge a few years ago, lot number 33. This is the original map that was part of the map that was filed. They had planned to have two lots here but because the soil conditions weren't adequate they made this one lot until we could improve the soil conditions to subdivide it. Since that map was filed the soil conditions in that area have changed. Not that we changed the soil but because of the drainage that was put in. The main reason we couldn't get it -- they couldn't get it approved was they had underground water. The Health Department will not approve this lot without the installation of a curtain drain or until we got rid of the underground water. The applicant at that time let our builders put in all this drainage, dried up the area. We dug test holes out there and now we

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LOT #33 OF ORCHARD RIDGE

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don't need a curtain drain so we're going to go back to the Health Department for approval of this lot. This was the original approval for the whole lot by the Health Department.

CHAIRMAN EWASUTYN: Thank you. Pretty straightforward.

Pat Hines?

MR. HINES: I noted a couple changes to the bulk table. I know Bryant will talk about those.

The existing drainage that's now in place that you just mentioned doesn't look like it has the benefit of an easement on either of the lots.

MR. BARGER: That's right. This was -- on the approved maps this was an approved easement. They since constructed drainage which is here and we haven't been able to find any easement as of yet.

MR. HINES: I'm asking if you could provide from the center line.

MR. BARGER: We're going to have to provide it --

MR. HINES: Correct.

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MR. BARGER: -- on there. I was going to go to the Town to see on the as-builts if this was shown. I don't know what year this was installed but we can not find any recorded easement for that drainage.

MR. HINES: What we're looking for now is to provide that on these two lots.

MR. BARGER: We will.

MR. HINES: That will help towards cleaning that up.

We're looking for a sign off from the highway superintendent. It looks like the driveway is in the location of the cul-de-sac. That won't impact the snow plowing.

Just a note on the approval for the septic system from County Health will be required.

I think we'll be heading towards a preliminary in the near future to get you to County Health.

MR. BARGER: There's a note on the filed map that any re-subdivision in Orchard has to go back to the Orange County Health Department, so we're planning on that.

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The reason the driveway is here is because they left the curb cut for the driveway at that location. So we'll get to the highway superintendent.

MR. HINES: It looks like it's not an issue.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I actually have all of Pat's comments. In the bulk table the front yard variance is shown at 40 feet and it is 40 feet, it's just labeled as 60.

MR. BARGER: I changed that. I labeled it as 60. It was labeled as 40. The distance along here which has been computed is 102.89 feet.

MR. COCKS: Okay. Those were the only issues with the bulk table.

Just in the E.A.F. just indicate where you got the information about the endangered species. That was it.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: I think Karen --

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MS. ARENT: I just wanted to let you know a request was made for release of the landscape bond for this property. I inspected it and there's several areas where street trees were not installed, and that's listed on the inspection.

MR. BARGER: I didn't hear you.

MS. ARENT: A request was made for an inspection of the landscape -- the landscaping that was supposed to be put in. I made an inspection and there's a couple of areas where street trees that were supposed to be installed were not installed.

MR. BARGER: None of the landscaping --

MS. ARENT: Not on yours. On the whole entire parcel.

MR. BARGER: Okay.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Would that affect this project at all?

MS. ARENT: No. It doesn't impact it at all.

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

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LOT #33 OF ORCHARD RIDGE

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MR. MENNERICH: I don't have a problem with the concept.

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: I'll move for a motion to declare a negative declaration for the re-subdivision of lot 33 of Orchard Ridge and to set it for a public hearing on the 16th of October.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes.

Mr. Shulkin, do you want to give us a little history what brought you to the point this evening with this lot? I mentioned to Board Members we had a brief conversation but I didn't

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LOT #33 OF ORCHARD RIDGE

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bring it all the way as far as GMAC and the history in general.

MR. SHULKIN: I'm Richard Shulkin with Easy Lifestyle Real Estate. We got involved in this project after Lenar decided to pull out due to the economic conditions. They had a mortgage with GMAC. There were approximately eight lots that were left here. They came to us and we sold them to local builders, and hopefully we'll be selling houses there. They also, when they pulled out, had four houses that were not sold, and knock on wood they did reduce the price reflecting the economic conditions and we sold three of them in the last couple weeks. Hopefully we'll have the fourth one sold. This is sort of symptomatic of what the major builders are going through throughout the country. The values of the property have come down and they're walking away. CHAIRMAN EWASUTYN: And how did GMAC manage to locate you? Did you meet them at a diner or --

MR. SHULKIN: No. Every once in awhile in real estate you have a success story. They happened to be looking at our website, which we

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LOT #33 OF ORCHARD RIDGE

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spent a lot of money on, and they were impressed.
We do a lot of new construction and they were
impressed by our website and they came to us.

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

MR. GALLI: It's going to be back up to
speed and off and running again.

MR. SHULKIN: We have a spec house.
There's very few spec houses going up on those
eight lots.

MR. BARGER: Two of them.

MR. SHULKIN: Two spec houses going up.

MR. GALLI: Thank you.

MR. SHULKIN: They're going up and the
lots are priced right. The values of land have
obviously come down and that's why there's not as
many people tonight as there usually is.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Any comments from
Board Members?

(No response.)

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LOT #33 OF ORCHARD RIDGE

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CHAIRMAN EWASUTYN: Thank you.

MR. BARGER: Thank you, sir.

(Time noted: 8:25 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: October 1, 2008

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

----- X

In the Matter of

AMENDMENT TO LOCAL LAWS
~ ACCESSORY APARTMENTS
~ LHI OVERLAY DISTRICT

Discussion by Bryant Cocks

----- X

BOARD BUSINESS

Date: September 18, 2008
Time: 8:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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MS. HAINES: The first item of Board business we have tonight is Bryant discussing the two amendments to local laws that were just recently passed, one on the accessory apartments and the other on the LHI overlay district.

MR. COCKS: As you guys recall, there was a proposal for what's going to be an LHI district which is basically RV sales and construction equipment along the Route 9W corridor on the same boundaries as the B zone. We saw this, me and Karen made comments on it and it was sent back to the Town Board and they approved the original one without any of our comments being addressed.

Basically this is going to allow for very small lots to be able to house very large equipment including cranes, RVs, any kind of construction equipment. They said they're going to come back and look at the bulk requirements and try to fix them. As of now we should be getting at least one application in for some -- some type of construction vehicle maintenance.

Tyler, who proposed this originally and is going to be coming back in with a site plan

1 application, has promised the back portion of his
2 lot, which is actually zoned residential, he
3 won't store or put anything back there and he'll
4 try to provide screening. So he did, you know,
5 make kind of an agreement with the Town to try
6 and, you know, make it look nice. We'll see what
7 happens. We haven't gotten an application in for
8 it yet. We'll have to review it when it comes
9 in.
10

11 The other is this amended the accessory
12 apartment portion of the Zoning Code. As of now
13 the change is basically making it from 450 square
14 foot minimum and 25 percent of the actual for the
15 maximum to 450 square feet as a minimum and
16 700 square feet floor area for the maximum.

17 The other big change was for some
18 reason they're saying that five people is the
19 maximum that's allowed to live there. Five
20 people in a 700 square foot apartment is
21 excessive to say the least. I have an 895 square
22 foot apartment and there's two people in it and
23 that's enough. So I don't know why they wanted
24 to put that provision in. They did put it in
25 there. And now they're actually going to be

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allowed in the IB and the B instead of just the B. So that was the only change to that law.

The Zoning Board originally was the one that approved it. Now it's just the building inspector. So we really don't see these things come in.

CHAIRMAN EWASUTYN: Conversation from Board Members. Frank Galli?

MR. GALLI: I attended the public hearing on both of these. On the accessory apartment one they were going to change the number of people, they were real concerned about it, and at the meeting there was a lot of public comment about five people, as you say, in such a small area. They were going to revisit and try to drop it. When I read it I guess they didn't drop it. I had the same concerns as you did about so many people in a little apartment.

The second issue was on the overlay district. I did speak on the overlay district at the public hearing. My concerns were I think it's going to put a lot of work on the Zoning Board, the building department to keep an eye on it. There was a lot of public comment on it. I

1 think the lots being as small as they are,
2 they're going to have a very hard time housing
3 all these huge equipment indoors. I can't
4 possibly see where they're going to not be able
5 to have them outdoors. They say they're going to
6 according to the law that they wrote. We'll see
7 what happens. I think they're going to keep the
8 Zoning Board busy when they start coming up.
9

10 CHAIRMAN EWASUTYN: Ken Mennerich?

11 MR. MENNERICH: No comments.

12 CHAIRMAN EWASUTYN: Joe Profaci?

13 MR. PROFACI: No comments, John.

14 CHAIRMAN EWASUTYN: Jerry Canfield,
15 would you like to add or comment on it?

16 MR. CANFIELD: Just to comment on what
17 Frank said, I don't want to shoot myself in the
18 foot, we have the same bosses, but it's just
19 going to be a difficult thing to monitor and
20 babysit.

21 Currently we have a few sites where the
22 requirement is, an example, a body shop in a
23 given area of the Town where the requirement was
24 that the vehicles were to be stored behind the
25 fence and in the garage. It's a babysitting

1 thing. We go up, we enforce it, it gets cleaned
2 up for two or three months, or maybe five months,
3 the owner may change hands and then it's starting
4 all over again. I just foresee this same
5 scenario being a nightmare to enforce and keep up
6 on top of. It is what it is, though. That's
7 what the Board approved. We'll have to do the
8 best we can to monitor it and police it.

9
10 CHAIRMAN EWASUTYN: Thank you. Pat
11 Hines, do you have any comments?

12 MR. HINES: I don't have any comments.

13 CHAIRMAN EWASUTYN: Karen Arent?

14 MS. ARENT: No comments.

15 CHAIRMAN EWASUTYN: Ken Wersted?

16 MR. WERSTED: No.

17 CHAIRMAN EWASUTYN: Mike Donnelly?

18 MR. DONNELLY: No.

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20 (Time noted: 8:30 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: October 1, 2008

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

----- X
In the Matter of

PRICE CHOPPER SIGNAGE
(2008-26)

Discussion by Karen Arent

----- X

BOARD BUSINESS

Date: September 18, 2008
Time: 8:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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PRICE CHOPPER SIGNAGE

MS. HAINES: The next item of Board business we have is Karen Arent discussing the signage for Price Chopper.

MS. ARENT: Price Chopper is planning an exterior renovation and they're planning to add several more signs. The question is should we make this a Planning Board item. The signs are not in accordance with the signage guidelines that we had approved -- that you had approved for the Mid Valley Mall. The square footage is in excess of what was allocated for Price Chopper, and also all the signs are proposed to be lighted boxes. If the additional square footage is acceptable I would suggest that they make them just mounted lettering like Stop & Shop has which is I think very attractive.

So I think -- there's a couple other minor issues. There's all of the shopping carts on the side of the sidewalk that faces Gidney Avenue and a couple landscaping trees that I think should be replaced.

CHAIRMAN EWASUTYN: Does this need to be referred to the ZBA for a variance on the signage?

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PRICE CHOPPER SIGNAGE

MS. ARENT: It would when they come before us with -- I think that we should make some modifications. I can't read this. This is way too small in scale. I think we should review each sign to make sure they're all necessary and then refer it once we have a better picture. I had requested a larger drawing.

Also, once -- I think the sign should be changed to not lighted boxes but black lettering, and that drawing should be submitted to the ZBA for a variance.

CHAIRMAN EWASUTYN: Let's take comments in general. Frank Galli?

MR. GALLI: Should they be denied their permit first, and then send them to the Zoning Board, and then let the Zoning Board determine if they're going to give them more or less, and then we can see it from there?

MR. DONNELLY: One of the things we've tried to do, at least in the initial comprehensive sign plans, is try to see if you would approve within your jurisdiction what's proposed before we send it for the area variance itself, otherwise they think they're done when

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PRICE CHOPPER SIGNAGE

they get the area variance and they have yet to hear from us.

MR. GALLI: That's fine.

MR. PROFACI: With relation to this Karen, did I understand you to say that it's greater than the amount we approved for the Mid Valley Mall?

MS. ARENT: Greater than the amount that was allocated on their signage chart on the architectural drawings --

MR. PROFACI: To Price Chopper?

MS. ARENT: -- right -- that were approved by your Board. As part of the architectural approvals we're asking for the consultant to list the square footage of signage and allocate a certain amount to each store. Right now the only amount of square footage that they allocated is for the actual Price Chopper signs. They didn't allocate any additional square feet. So all of the signage is in excess of what's on that chart.

MR. PROFACI: Would it then also exceed the amount for zoning -- allowed for zoning?

MS. ARENT: It doesn't exceed it

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PRICE CHOPPER SIGNAGE

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because all the buildings haven't been built, but eventually it will exceed it.

MR. DONNELLY: It will happen later.

MS. ARENT: That's why we were asking for the chart on the drawing, so that the first person doesn't get all the signage and it's more equitably distributed.

MR. PROFACI: Got you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Have they submitted an application for amended site plan?

CHAIRMAN EWASUTYN: No, they have not.

MR. MENNERICH: It sounds like that's what they need to do, then this would be part of the review.

CHAIRMAN EWASUTYN: And we'll explain the history as to why we have the information before us now and why we don't have an application, and you're correct.

Karen, do you want to explain the history?

MS. ARENT: Well they came before -- they were asking Tilford if this is acceptable to just go through the building department, and

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PRICE CHOPPER SIGNAGE

Tilford, seeing all the additional signs, sent it to John and then John referred it to me. So that's how it happened.

CHAIRMAN EWASUTYN: What Tilford was looking for was Karen's input as far as how it complies with everything. What we arranged was to set it up as a project with a new project number, receive monies which was entered into that account to have Karen review it and report back to us. So we're at that stage now where we need a formal application.

MR. GALLI: John, is the formal application for an amended site plan or new amended site --

MR. DONNELLY: Maybe an amended ARB.

MR. GALLI: I was going to say I know they had some in the works. Maybe it's possible the other building, that would affect the signage for this. If we knew what they wanted to do possibly.

CHAIRMAN EWASUTYN: There would be two separate applications. We would have the Price Chopper and then we have the Mid Valley Mall.

MR. GALLI: That's fine.

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PRICE CHOPPER SIGNAGE

CHAIRMAN EWASUTYN: Mike, would you like to add anything?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: So I think then what the Board is suggesting is that you contact the representative for Price Chopper, have him contact the Planning Board office, Dina Haines, Planning Board Secretary, as far as making an application for amended ARB which would reflect signage, and then we could move forward from that point. It would be an agenda item.

MS. ARENT: I have one question. The signage guideline chart appears on the site plan. Is that a problem?

MR. DONNELLY: It's probably an amended site plan.

MS. ARENT: So it would be both?

MR. DONNELLY: I would think so because the treatment and appearance would be ARB but the location and allocation is site plan.

(Time noted: 8:37 p.m.)

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

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DATED: October 1, 2008

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

----- X

In the Matter of

JEHOVAH'S WITNESS PARKING EXPANSION
(2008-08)

Discussion by Karen Arent

----- X

BOARD BUSINESS

Date: September 18, 2008
Time: 8:37 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
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

1
2 MS. HAINES: The next item for Board
3 business we have is Karen Arent discussing the
4 Jehovah's Witness parking expansion.

5 MS. ARENT: I had a telephone call from
6 Mrs. Fern, who's in the audience, expressing
7 concern about the new parking lot that's going to
8 be behind her property. I told her that she
9 should -- I spoke with John about it and he asked
10 for her to submit a letter. I'll let her speak
11 about her letter.

12 As part of the Jehovah's Witness plan
13 we did require a landscape bond like we do with
14 every project. They didn't want to submit the
15 bond but we were very strong and they submitted
16 the bond.

17 They were also proposing not to include
18 the transplanted materials which are currently
19 where the driveway is proposed up to the parking
20 lot. They're moving all of those materials on
21 the other side of the drive to provide screening
22 behind the drive. So that's also included in the
23 landscape bond. They did provide landscaping in
24 accordance with the buffer regulations.

25 CHAIRMAN EWASUTYN: Thank you. This is

1 not a normal open meeting procedure. What I'm
2 really looking to do, Ms. Fern, is to be polite
3 but not to debate, and keep it to a minimum.
4 Before I bring it to your floor I'll let Mike
5 Donnelly explain the process to you so you
6 understand how we worked, the window in which we
7 worked, the fact that it wasn't secretive. So it
8 may not make you feel comfortable but I'll let
9 you know how we followed the letter of the law.
10

11 Mike.

12 MR. DONNELLY: First, all members --
13 all meetings of the Planning Board are open to
14 the public as you've seen here this evening. All
15 of the agendas are both posted here and published
16 on the website usually quite a few weeks in
17 advance of the meeting. So in theory there's
18 open opportunity to come and observe. New York
19 does have an open meetings law which requires
20 that meetings of this Board be open to the public
21 so that people can come and hear what happens and
22 observe the proceedings. The concept of a public
23 hearing is an unusual and somewhat rare
24 exception, and that is the opportunity where
25 there's a give and take with the public. The

1 purpose of public hearings when they are held is
2 for the public to bring items, as you may have
3 heard earlier, to the attention of the Planning
4 Board. Often when a project is one that had
5 already received an approval and there is some
6 amendment or modification to that, the Planning
7 Board elects not to hold a public hearing as it
8 did in this matter. The public hearing is never
9 for the purpose of asking the neighbors to
10 express their support or objection, at least not
11 in a fashion that would be the result. In other
12 words, we don't decide whether someone can do
13 something that the code allows based upon whether
14 the neighbors like it or don't like it. I don't
15 mean to say that impolitely, the neighbors'
16 comments are often helpful, but what they want
17 and don't want is not what decides whether
18 someone can build what the ordinance allows them
19 to build. So there was no public hearing
20 although the meetings that were had before the
21 Board were all open to the public.

22
23 The other thing you request in your
24 letter is that the Planning Board rescind it's
25 approval. The Planning Board has no authority to

1 rescind any approval that it grants. The only
2 way a Planning Board approval can be rescinded is
3 by a court order. The Planning Board, unlike the
4 Zoning Board which does have the authority to
5 rescind its approvals by unanimous vote after
6 they have granted them, the Planning Board has no
7 authority to do that.
8

9 So by way of explanation in this
10 matter, the applicant was before this Board on a
11 number of occasions. The Board elected not to
12 conduct a public hearing and ultimately granted
13 an approval. The minutes of all of those
14 meetings are available if you wish to see them.
15 The resolution of approval is available if you
16 wish to see it. In terms of the enforcement
17 issues that you raise in your letter regarding
18 use of the facility at times and in a manner
19 that's different than the original approval
20 allowed, that's an enforcement issue. The
21 Planning Board does not have any enforcement
22 authority. You'd have to go to the code
23 compliance department and ask them to look into
24 that. There was nothing about the approval that
25 was recently granted that changed any of the

1 terms or conditions of the original approval. So
2 if there were limitations on the hours, the
3 number of people and times of year, all of those
4 conditions remain valid and they are enforceable
5 by the code compliance department if indeed those
6 were conditions of the resolution of approval.
7

8 MS. GEMMA: I just want to say one
9 thing.

10 MS. CONERO: Can I have your name,
11 please?

12 CHAIRMAN EWASUTYN: Ma'am, ma'am, we
13 need your name.

14 MS. GEMMA: Lena Gem -- I'm Mrs. Gemma
15 from Lakeview Drive. I was the first one to
16 build a house on the bottom of the hill. There
17 was no road there when I moved there. So I'm
18 there -- God let me live there forty-six years
19 and now I'm going to get killed with these cars
20 coming down the hill. I had three incidents
21 happening. One car came down and went into my
22 garage. Another one came down on my mailbox.
23 Another one broke the bushes. Now yesterday I
24 drove up Lakeview Drive myself. I came down slow
25 and that curve like that, if you miss when you're

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on there with the ice it will go right down into my roof of the house. I don't know -- do you know where Lakeview Drive is?

MR. DONNELLY: I do but I haven't driven it, I've only seen it on maps.

MS. GEMMA: Well I've been there forty-six years and now I'm afraid that if this Jehovah's Witness comes down, they don't have a septic tank where they are now, so they have a big truck to bring the -- so if they come down with the truck and they slip --

CHAIRMAN EWASUTYN: That's on Town sewer, is it not Jerry?

MR. CANFIELD: If I may.

MS. GEMMA: It's a dangerous thing.

MR. CANFIELD: If I may answer that.

MS. GEMMA: Huh?

MR. CANFIELD: If I may answer your question. There should be no traffic from Jehovah's Witness on Lakeview Drive. There's no interconnect.

UNIDENTIFIED SPEAKER: That's because you don't live there. Often they make a mistake and --

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MR. CANFIELD: By mistake they're going up there? Okay.

UNIDENTIFIED SPEAKER: A lot.

MR. CANFIELD: If I may also --

CHAIRMAN EWASUTYN: What I want to try and do is stick to the facts. We're not here tonight to discuss whether the road is safe or unsafe, whether people drive up there or don't drive up there. We're really here tonight, as Mike Donnelly explained to you, to discuss the procedure and the decision making as far as the procedure. We can't go -- we can't go back and forth whether the area has grown. We all know it's grown, the safety and all the factors. I can't open it up to that because we could be here for twenty or twenty-five minutes talking about something that we can't act on.

Ma'am, your name.

MS. JEANNE GRAHAM: My name is Jeanne Graham, 3 Lakeview Drive. I would address you by your last name but I can't read it from here. I'm sorry, sir.

CHAIRMAN EWASUTYN: My name is John.

MS. JEANNE GRAHAM: John, my comment

1 would start with exactly what you said before
2 when the lawyer spoke about having spoken with
3 Mike, that it would have been nice to have some
4 knowledge of this, not get it as hearsay and well
5 they're doing this, they're doing that. Some of
6 us actually thought that you had granted an
7 easement through where there is a legal
8 right-of-way onto Lakeview Drive as an accessory
9 entrance to the Jehovah's Witness Education
10 Center. That's part of what concerned me because
11 if they had access up at the top of my street,
12 they would indeed be coming down my street in the
13 winter and perhaps run into the house as a car
14 did one summer. Not too happy about that idea.
15 From the plans that I saw this evening I see
16 that's not the case, but it still would have been
17 nice to have more knowledge. Not all of us have
18 access to the website. Not all of us have time
19 to read every paper that you might advertise in.

21 CHAIRMAN EWASUTYN: Okay. And I think
22 again so you understand, and I'll have Mike
23 Donnelly explain to you the latitude that the
24 Planning Board has to work under, what are the
25 requirements. We work by those requirements.

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It's not like we could pick and choose how to send out mailings, who to inform.

Mike.

MR. DONNELLY: Tonight you've seen what is a rather short agenda for this Board. The Board meets always twice a month, many times three times a month, and I recall a few months where we met four weeks in a row. Often the agendas carry ten or twelve items. It is really not possible for us as a Board or administratively within the Town office to notify every property owner of every application that's made. As I said, public hearings are an unusual event and they are scheduled when they need to be, the notices are published and a mailing takes place. Many, many, many, certainly the vast majority of matters that appear before this Board do not involve public hearings, and if we had to hold public hearings on all matters we simply wouldn't get any work done.

MS. FERN: I have a question for you.

Before when the gentleman was here --

CHAIRMAN EWASUTYN: Ma'am, for the record your name?

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2 MS. FERN: Louise Fern, 9 Lakeview
3 Drive. When the gentleman was here before to
4 discuss the Brookside project you stated you were
5 concerned about his parking and you stated that
6 once he made a decision and you granted it about
7 parking it was irrevocable. Why is that
8 different than this Jehovah's Witness project
9 where they're destroying a whole acre of wood for
10 additional parking?

11 MR. DONNELLY: What I meant was you
12 can't shrink a building. Expansions of projects
13 are allowed if the code permits them. What I was
14 trying to point out in that project was that the
15 parking was only adequate for that size building
16 with that proportion of uses within it. You
17 can't shrink the building. That's --

18 MS. FERN: And likewise with the
19 Jehovah's Witness building, it's not being shrunk
20 and there's more people coming and more parking.
21 It doesn't seem like it fits the purpose any
22 longer.

23 MR. DONNELLY: I can't address that.
24 They did give an explanation as to why and when
25 they needed overflow parking. That was the

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reason for the request.

MS. FERN: And you're not concerned about the, you know, maximum capacity of people that are there? That stands to reason if they want more parking that the building has outgrown it's usefulness for expansion.

MR. DONNELLY: I think all of those items were reviewed during the process. I don't have that file with me. There were memos, the consultants looked at those issues and reported to the Board.

MS. FERN: As a follow-up question I would like to know why when I called the building department in February, and it's my understanding the plans say that they were before your Planning Board in February -- on February 6th or something. I called and filed a complaint and I was told nothing was going on. I called back -- well, they were supposed to call me back and nobody from the Town called me back. I waited a month, so in March I called again and Tilford told me that nothing was going on. He was actually at Unity Drive. So why is it when a citizen, a taxpayer wants to contact the Town

1
2 about these Planning Board meetings that we can't
3 get any knowledge about it?

4 MR. DONNELLY: The way I read your
5 letter and what you said is you talked to
6 something happening in the field. Tilford
7 Stiteler went out and saw that nothing was
8 happening in the field and reported back to you
9 that nothing is happening in the field.

10 MS. FERN: I asked him if anything was
11 planned. I asked him specifically if anything
12 was before the Planning Board and the building
13 inspector told me nothing.

14 CHAIRMAN EWASUTYN: I think that this
15 is a conversation you could truly understand that
16 we can't spend time on because we don't know what
17 transpired between you and Tilford and we can't
18 explain how Tilford manages his department. So
19 that's -- this is a separate matter.

20 Bryant, you had something to state?

21 MR. COCKS: Just in regards to the
22 parking calculations for the site. In the
23 original proposal they came in and they were
24 supposed to have 600 parking spaces. In an
25 effort to mitigate the impact they thought a lot

1 of people would carpool. The Planning Board made
2 the decision to only let 400 parking spaces in.
3 After the building has been open for five years
4 they realize that they do need that additional
5 parking which was originally required, so now
6 they're coming back in.
7

8 MS. FERN: Do you know what the
9 capacity is for people?

10 MR. COCKS: I think it's 1,800. I'm
11 not sure.

12 MS. FERN: They told me 2,000 -- in
13 excess of 2,000 people are attending now.

14 CHAIRMAN EWASUTYN: Again, I think in
15 all fairness we have allowed you --

16 MS. FERN: Let me ask you one more
17 question. What about how they're going to
18 proceed to build this parking lot? I mean are
19 they going to use dynamite because it's all on
20 bedrock right there? They have used dynamite --

21 CHAIRMAN EWASUTYN: There's no -- there
22 is no mention of the use of blasting or anything
23 to that effect. There is stormwater sediment
24 erosion control measures that Pat Hines will
25 discuss that will be put in place. Karen

1 discussed the landscaping, she discussed the
2 bonding of the landscaping, the longevity of the
3 landscaping.
4

5 I'll let the two consultants conclude
6 with those final comments and we'll close this
7 portion.

8 Pat Hines.

9 MR. HINES: During the review of the
10 submission for the overflow parking area my
11 office reviewed the stormwater management and the
12 soil erosion control plans. We commented on
13 several occasions and those plans were revised
14 consistent with our comments. We did identify
15 rock on the site. There was concern from the
16 jurisdictional fire department that fire
17 protection be provided to the parking lot because
18 of the distance in and a hydrant was proposed.
19 We did notice that there was rock on the site and
20 they revised that hydrant location in order -- in
21 an attempt to avoid that rock. There was no
22 mention of blasting on the site. The parking lot
23 actually is a fill area. We were concerned about
24 that grading and they have filling in a majority
25 of the parking lot to save a couple of trees.

1 They had to put tree wells around almost
2 three feet deep in some locations.

4 During the construction of the project
5 representatives of my office will be out there
6 periodically to review the construction
7 activities to make sure that they are complying
8 with the soil erosion control measures that are
9 required, doing the proper reporting to the DEC.
10 They'll need a permit because they're over an
11 acre of disturbance and for consistency of the
12 plans.

13 MS. FERN: What did you say, they're
14 getting a permit from the DEC?

15 MR. HINES: Any project that disturbs
16 greater than one acre, a non-residential project,
17 a State Pollution Discharge Elimination System
18 Permit, a stormwater SPDES permit we call it for
19 short, they'll need to do that. That's not a
20 hard permit to get for a small size project, you
21 fill out a form and submit it for coverage, but
22 it does give the Town the ability -- as a
23 regulated municipal MS-4 Town the ability to
24 enforce the regulations and require some
25 additional stormwater controls.

1 They are, as part of this project,
2
3 increasing the size of the detention pond in the
4 front to mitigate drainage. The drainage from
5 that rear parking lot will be brought to the
6 front in that pond along Unity Drive. That pond
7 will be expanded and a guiderail was required to
8 be placed around it because it was expanded.

9 So we did look at those construction
10 details.

11 MS. GEMMA: How many buildings are they
12 allowed to have?

13 CHAIRMAN EWASUTYN: Ma'am, again I
14 can't -- we can't digress. We can't digress. We
15 can't digress. What we're really trying to
16 explain to you this evening is --

17 UNIDENTIFIED SPEAKER: That we can't do
18 anything.

19 CHAIRMAN EWASUTYN: I apologize. I'm
20 going to close this shortly. We're summarizing
21 it now.

22 What we're really summarizing is that
23 under SEQRA, the State Environmental Quality
24 Review Act, we had given it a hard look. They're
25 explaining to you now how we've given it a hard

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look and then we're going to close this.

Pat Hines and Jerry Canfield and Karen Arent will speak and then we're closing it at this point.

UNIDENTIFIED SPEAKER: I'm not going to ask you a question but --

CHAIRMAN EWASUTYN: You don't have the table right now. You don't have the floor. I ask you when Pat Hines is speaking -- as I said earlier, Karen Arent is going to speak, Jerry Canfield will speak and you'll be acknowledged when they're done talking. We have to keep a sense of order to this. Your comment will be the last one we'll receive.

Jerry.

MR. CANFIELD: Just that some of the items in Mrs. Fern's letter and as Mike had stated are code enforcement items. I can oversee this and look into it, and I assure you that I will. With Mrs. Fern's permission I'd like to call you tomorrow to discuss these items.

Septic pumping, just one thing. There should not be any septic pumping there. They are on City sewer. Perhaps we need to discuss what

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they are doing there.

UNIDENTIFIED SPEAKER: (Inaudible.)

CHAIRMAN EWASUTYN: Please, please, please. Again, hear what he has to say. We're not going to debate this back and forth.

What Jerry is saying, Ms. Fern, is he'll establish with you a means of communication. Okay. So I think that clearly should be satisfying to you. Let everyone have their final comment, the gentleman in the back will have his final comment and then we'll close this.

Jerry.

MR. CANFIELD: Just continuing on, as far as the hours of operation that you had mentioned and any other enforcement matters as far as that goes, I can look in on the building department, okay, and coordinate whatever needs to be done to enforce that they are doing what they were approved to do in that sense. I will call you tomorrow and we'll follow up on that.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: I want to let you know they

1 are preserving at the closest to the property
2 line twenty-three feet of woods and the furthest
3 about fifty feet of woods. So some of the wooded
4 area is being preserved. It's much better than
5 nothing. They have to put tree protection
6 fencing up in order -- before they start
7 construction to make sure that none of the
8 construction equipment rides over the roots of
9 the trees which ultimately kills the trees four
10 to five years later. They are also putting up a
11 mound and planting a variety of evergreens and
12 shrubs on top of the mound. And yes -- you have
13 the drawing. They're not lighting the parking
14 lot. They didn't have any lighting in their
15 plans. They can come back and ask for lighting
16 but as of today they haven't proposed any
17 lighting.

18
19 CHAIRMAN EWASUTYN: The last comment,
20 the gentleman in the back. Give your name and
21 address.

22 MR. FERN: Anthony Fern, I'm at 9
23 Lakeview Drive. My comment is this is a
24 different Planning Board than when Jehovah's
25 Witness originally went and it was quite a bit of

1
2 opposition when they had the public hearing on
3 it. I don't know if you have a history of that
4 or not. They got their way with the assurances
5 they wouldn't expand and here we are six years
6 later, seven years later expanding it. That's my
7 comment.

8 Also I would like you to know that I
9 called Mr. Jeff Baker who is a representative of
10 Jehovah's Witness in February. He told me he was
11 not at liberty to discuss their plans at this
12 time but he would get back to me. The man never
13 got back to me. So we're dealing with an
14 organization that's very deceptive, very
15 secretive, and they get their way and we don't
16 appreciate it.

17 CHAIRMAN EWASUTYN: The only other
18 person that hasn't spoken is this gentleman here.
19 You've taken the time to come. We'll hear your
20 comment and then we'll close.

21 MR. TORRES: My name is Manuel Torres,
22 I live on 65 Old Little Britain Road which is at
23 the bottom of Lakeview and Unity Place. My
24 concern about the project is -- and I think Mr.
25 Canfield will talk about the water, and Mr. Hines

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I think it was -- about the water from the parking lot, it's not going to affect anything else. It does. That's not true. You can come to my house in the wintertime. I live in that house for fifteen years. Since they built Jehovah's Witness I have a problem with water every year. Since they built Kohl's everything came through. They didn't care about me. I got flooded one year. I came here, I came to Mr. Canfield's office, nobody, nobody did anything. So now we put in a parking lot where it used to be woods. What's going to happen with that water? You say that you have a plan. The plan is it's going to go in my backyard because it's going to go to that big pond they have up front. Where is that water going from there? Down the hill to the back of my property. You can come to my property any time you want.

MR. HINES: I will.

MR. TORRES: I'll show you in the wintertime what my property looks like. It never did like that. First the water table in the wintertime. We're all aware of global warming. It's not going to get any better. The projects

1 we do on 300, buildings, where does the water go?
2 Do we care about our Town of Newburgh? No, we're
3 just building. That's the solution.
4

5 By the way, I thoroughly agree with Mr.
6 Donnelly, it's been approved. There's nothing we
7 can do.

8 MR. HINES: I will take a look when I'm
9 out doing the inspections. The detention pond in
10 the front does not discharge towards your house,
11 it discharges towards Barton Chevrolet.

12 MR. TORRES: The other one
13 discharges --

14 MR. HINES: Maybe the other one does.
15 I'll take a look at that.

16 MR. TORRES: I appreciate it. The
17 water department came and did some digging.

18 CHAIRMAN EWASUTYN: What do you want ?
19 What is it? You're the last comment.

20 MS. DOROTHY GRAHAM: My name is Dorothy
21 Graham, I live on 3 Lakeview Drive. I had only
22 lived in that house a very short time when a car
23 came down that hill and came straight into my
24 house. The whole front was gone and rebuilt.
25 Mr. Pomerico rebuilt it.

1
2 I am concerned that you put this
3 parking lot where you're going to put it, what's
4 next to that parking lot? There's an easement, a
5 right-of-way that Mr. Tighe had in there so that
6 another row -- another street row could be built
7 next to ours over the next road. I don't know
8 how close to Mr. and Mrs. Fern that easement is
9 but it's at the top of the hill. Now, it's not
10 going to be long before they're going to ask you
11 to open the easement and let us have two streets
12 out of this parking lot.

13 When we go past there on the weekend
14 every space is used up by those people. Every
15 space, across the street from them, by the left
16 of them, by the right of them.

17 Now, they have not been a problem. I
18 was extremely concerned when they started to
19 build it. They have not been a problem. They
20 have been very clean. But if that easement is
21 opened up it's going to -- somebody will get
22 killed on that road that comes down our road
23 because it is not a properly built road. Thank
24 you.

25 CHAIRMAN EWASUTYN: I'm closed. I'm

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going to close it.

MS. FERN: You said everybody would be heard.

CHAIRMAN EWASUTYN: I didn't say everybody would be heard. I said it's unusual that we would open this up to the public. What you're finding here is, and be assured of what I'm going to say to you, the Planning Board has consultants that make recommendations. They're professionals. The Planning Board reviews projects with the public's interest in mind. It's unimportant that the public never says thank you whether they like what they hear or don't like to hear it because that always happens and they never say thank you. I can say that for all the years I've been here.

MS. FERN: I'm sure the Jehovah's thanked you.

CHAIRMAN EWASUTYN: Again, it's comments like that that really aren't appropriate. And they're not. They're just self-satisfying. And I beg your apology on that but it's not necessary at this point because I know you won't be looking to give it. So that

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concludes that.

I will acknowledge the lady, not because of your threat, but just for the courtesy that we're extending.

Ma'am, please. This will end it.

MS. PULLANO: I'm Lori Pullano, I live on 7 Lakeview Drive. I've been there sixteen years and I can just tell you when Anthony Fern decided to expand his kitchen I got a certified letter in the mail and it was very nice that I was notified. He also came to my door to say hey, I'm going to be planning on doing this, you might see some dust. It would have been nice, as you said, if I was informed being that the bulk of that parking lot is right in back of my house. I enjoy -- as an environmental engineer I enjoy looking at the woods. I don't really appreciate all the wildlife coming into my yard because they don't have any place else to go, and their voice is never heard.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 9:02 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: October 1, 2008

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

----- X
In the Matter of

PINNACLE LOT #10
(2003-62)

Discussion by Karen Arent

----- X

BOARD BUSINESS

Date: September 18, 2008
Time: 9:02 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
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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PINNACLE LOT #10

130

CHAIRMAN EWASUTYN: Dina, the next item of Board business.

MS. HAINES: The next item of Board business tonight is discussing --

CHAIRMAN EWASUTYN: Ma'am, please.

MS. HAINES: The next item is Karen Arent discussing Pinnacle, lot number 10.

MS. ARENT: Everybody recalls Pinnacle and the attempts we were making to save as many trees as possible on the site. There are several big, large specimen trees that they were designed around and construction fencing was put around them. So far most of them look like they're doing well.

There is a request from a homeowner on lot number 10, which this is lot 10, to remove one of the trees. When I was originally called I wasn't aware that it was one of the numbered trees that we were trying to save. This tree is located right here. It's a 43-inch diameter oak. Originally we suspected that perhaps the tree was not located. I double checked all the measurements -- I mean, sorry, it wasn't located properly on the originally approved drawings. I

1 double checked the measurements. It's located
2 properly. Actually, Ken went out with me when we
3 spoke with the builder of the project as well as
4 the new homeowner, or the new property owner
5 about the tree to make sure that it actually had
6 to be taken down. I asked for a plan showing
7 where the house would be in relationship to the
8 tree to make sure -- to see if there was any
9 possible way to save it.
10

11 Now, Greg Shaw's drawing originally had
12 the house back here in an effort to better save
13 the tree. His drawing also had a fifty-foot
14 setback on this side of the property and a
15 thirty-foot setback on this side of the property.
16 The reason why the house is moved up is so that
17 the people can have a backyard because if you put
18 the house all the way back here it's very sloping
19 and it would require several retaining walls
20 which are very expensive. And also Greg Shaw's
21 drawing had the driveway in the front of the
22 house, and this house has a four-car garage, so
23 that they would not be able to have that garage
24 if it's not a side-loaded garage. And also for
25 this type of house it's not really the look to

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PINNACLE LOT #10

132

have garage doors in the front.

So the request was made to remove the tree. I think that we asked the homeowner to check to see what they can do to save it. Their position is they don't want to save it because of the fact that it would cost hundreds of thousands of dollars to do the backyard if they saved this tree, and also they wouldn't be able to put the four-car garage in.

CHAIRMAN EWASUTYN: And your recommendation to the Planning Board?

MS. ARENT: I hate to say it because it's a beautiful tree but I would hate to -- if I was the property owner I would be asking for the same thing I think.

CHAIRMAN EWASUTYN: And your recommendation?

MS. ARENT: I recommend taking down the tree.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: If that's what Karen recommends, that's fine.

That's on the river side or the street side?

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PINNACLE LOT #10

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MS. ARENT: This is on the river side. It's got one of the best views of the river. When we were allowing trees to be taken down we never anticipated, you know, that this was going to be one of the ones asked for but --

MR. MENNERICH: Actually that one sits way back from the river. It's on the back side -- the street side of the house.

MR. GALLI: That's fine.

MR. MENNERICH: In fact, the side-loaded garages I think is the biggest thing that made the change. We certainly -- we always try to encourage side-loaded garages, so I don't think we're out of line here.

The other thing is this is going to be a big house, 7,000 square feet or something. The indication was that they plan on doing, you know, a real good landscaping job with the house, too. It's just not going to be a house sitting there.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: As big a shame as it is, obviously in order to fully utilize the lot the way they want to it's got to be done.

CHAIRMAN EWASUTYN: Okay. We'll direct

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PINNACLE LOT #10

134

Karen Arent to send a letter to the builder.

MS. ARENT: Yes. As well as Mr.
Krysberg.

CHAIRMAN EWASUTYN: And the letter will
state?

MS. ARENT: That for these reasons, and
I'll list the reasons why, the tree can be
removed.

CHAIRMAN EWASUTYN: Thank you.

MR. GALLI: John, just a comment. I
really appreciate them actually asking instead of
just taking it down and asking for forgiveness.

MS. ARENT: True.

MR. GALLI: Really. A lot of people
would have just taken it down and said oops.

MR. PROFACI: I was just thinking the
same thing. I'm surprised they didn't just do
it.

MS. ARENT: They have Mr. Krysberg
there to let them know what they have to do.

CHAIRMAN EWASUTYN: Which is nice. In
the spirit of what we worked with it worked out
well.

Any other comments?

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PINNACLE LOT #10

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MR. MENNERICH: It was also interesting, he said one other lot had been sold that they were going to be building on.

MS. ARENT: On the other end of the --

CHAIRMAN EWASUTYN: Do you know what they're going to put on it?

MR. GALLI: They're going to make a community house.

(Time noted: 9:09 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: October 1, 2008

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

----- X

In the Matter of

YEAR-TO-DATE COMPARISON

August 2007 to August 2008

----- X

BOARD BUSINESS

Date: September 18, 2008
Time: 9:09 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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YEAR-TO-DATE COMPARISON

MS. HAINES: The next thing is the year-to-date comparison. Last year and this year both have four but we're down fifteen total projects and about \$13,000 in fees.

(Time noted: 9:10 p.m.)

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

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DATED: October 1, 2008

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

----- X

In the Matter of

QUARTERLY SITE INSPECTIONS

----- X

BOARD BUSINESS

Date: September 18, 2008
Time: 9:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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QUARTERLY SITE INSPECTION

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MS. HAINES: Then the last thing is the quarterly site inspection for October.

CHAIRMAN EWASUTYN: If you all would have a chance to e-mail Dina as to what Saturdays you think you might have available, then we'll select a Saturday and move forward.

I'll move for a motion to close the Planning Board meeting of September 18th.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

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

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DATED: October 1, 2008