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

----- X

In the Matter of

MAGYAR SUBDIVISION
(2010-09)

Larabee Lane off Route 9W
Section 9; Block 1; Lot 16
R-3 Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: October 21, 2010
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: FRANK VALDINA

----- X

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

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MR. BROWNE: Good evening, ladies

3

and gentlemen. Welcome to the Town of

4

Newburgh Planning Board meeting of

5

October 21, 2010.

6

At this time I'll call the meeting

7

to order with a roll call starting with Frank

8

Galli.

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MR. GALLI: Present.

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MR. BROWNE: Present.

11

MR. MENNERICH: Present.

12

CHAIRMAN EWASUTYN: Present.

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MR. PROFACI: Here.

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MR. FOGARTY: Here.

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MR. WARD: Present

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MR. BROWNE: The Planning Board has

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professional experts that provide reviews and

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input on the business that's before us, including

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SEQRA determinations as well as code and planning

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details. I will ask them to introduce

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themselves.

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MR. DONNELLY: Michael Donnelly,

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Planning Board Attorney.

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MS. CONERO: Michelle Conero,

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Stenographer.

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MR. CANFIELD: Jerry Canfield, Town of Newburgh.

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

MR. COCKS: Bryant Cocks, Planning Consultant.

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

MR. PROFACI: Please stand for the Pledge.

(Pledge of Allegiance.)

MR. PROFACI: Please turn off your cell phones and other electronic devices. Thank you.

MR. BROWNE: The first item of business we have this evening is a public hearing. Before that public hearing, I would ask Mike Donnelly to review briefly the purpose for that.

MR. DONNELLY: The purpose of the public hearing this evening is for a subdivision. The idea is to hear from the public, anyone who may have information they can bring to the attention of the Planning Board that the Planning Board may not, by themselves, be aware of or that they've heard from their consultants. After the

1 applicant gives his presentation, the Chairman
2 will ask if members of the public wish to speak.
3 If you'd please identify yourself, come forward,
4 tell us your name, and spell it for the
5 Stenographer, and if you would tell us where you
6 live in relation to the project. If you have
7 questions, the Chairman will, if appropriate,
8 direct those either to the applicant's engineer
9 or to one of the Town's consultants.

10
11 MR. BROWNE: Thank you, Mike.

12 The first item of business is the
13 Magyar Subdivision being presented by Frank
14 Valdina. It's a public hearing on a two-lot
15 subdivision.

16 I would ask Ken Mennerich to read the
17 hearing of notice.

18 MR. MENNERICH: "Notice of hearing,
19 Town of Newburgh Planning Board. Please take
20 notice that the Planning Board of the Town of
21 Newburgh, Orange County, New York will hold a
22 public hearing pursuant to Section 276 of the
23 Town Law on the application of Magyar Subdivision
24 for a two-lot subdivision on premises south side
25 of Larabee Lane off Route 9W. Said hearing will

1
2 be held on the 21st day of October 2010 at the
3 Town Hall Meeting Room, 1496 Route 300, Newburgh,
4 New York at 7 p.m., at which time all interested
5 persons will be given an opportunity to be heard.
6 By order of the Town of Newburgh Planning Board.
7 John P. Ewasutyn, Chairman, Planning Board Town
8 of Newburgh. Dated September 29, 2010."

9 MR. BROWNE: I would ask Frank Galli to
10 address the hearing publications.

11 MR. GALLI: The notice of hearing was
12 published in The Mid-Hudson Times and The
13 Sentinel. The mailing was waived in this
14 particular case because of the amount of mailing
15 that was due, and they just did it for the Zoning
16 Board, for the public hearing they had at the
17 Zoning Board. Two notifications were sent out,
18 one to the condo association --

19 MR. VALDINA: I sent three out, one to
20 the condo, and one to the cemetery, and one to
21 Mazzola, the adjoining property owners.

22 MR. GALLI: They're all in order.

23 CHAIRMAN EWASUTYN: Would you give your
24 presentation, please?

25 MR. VALDINA: Thank you. As was

1
2 mentioned in the notice of hearing, what we're
3 proposing is a two-lot subdivision. We have a
4 2.83 acre parcel which has an existing residence
5 on it which is served by Town water.

6 We're proposing to subdivide it as
7 shown on this map here. The lot with the
8 existing house will be 1.15 acres. The new
9 residential lot will be 1.67 acres. That will be
10 served by a well and subsurface system.

11 The Zoning Board of Appeals did approve
12 the front yard variance, as requested, back in
13 August.

14 As I mentioned, in keeping with the
15 general philosophy of the mailings, the mailings
16 were sent to the Mazzolas to the west, the Cedar
17 Hill Cemetery which is to the north, and it went
18 to the management organization of the Par Apple
19 Valley Condo units. All the zoning requirements
20 are met, like I said, except for the front yard
21 which we did get a variance for.

22 CHAIRMAN EWASUTYN: At this time we'll
23 turn the meeting over to the public. Is there
24 anyone here this evening who wishes to address
25 the Board?

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(No response.)

CHAIRMAN EWASUTYN: Okay. Let the record show that there is no interest from the public at this time.

I'll turn to Jerry Canfield, Code Compliance. Jerry, do you have anything to add?

MR. CANFIELD: We have nothing outstanding.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: They've addressed all of our comments.

I do note that Mike Donnelly has a private road access and maintenance agreement that needs to be approved.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: We have nothing further. The only question I had was if the stop sign was removed.

MR. VALDINA: It will be on the final plat before it gets submitted for stamping. That was number 7 I believe it was. That will be removed prior to.

CHAIRMAN EWASUTYN: Comments from Board

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Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: No. Everything is satisfied. Thank you.

MR. MENNERICH: No question.

MR. PROFACI: Nothing additional.

MR. FOGARTY: No comments.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: At this point is there anyone, one more time, from the public who would like to speak?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to close the public hearing on the two-lot subdivision on the lands of Magyar.

MR. GALLI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by -- who was that?

MR. FOGARTY: Tom.

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

MR. GALLI: Aye.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

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

MR. DONNELLY: Frank, are you looking
to defer payment of the fee in lieu of parklands?

MR. VALDINA: No.

MR. DONNELLY: So we don't need that
condition. We will make reference to the Zoning
Board of Appeals' decision within the resolution.
I have reviewed a private roadway easement and
maintenance agreement. It's my understanding it
covers only these two lots and you were unable to
obtain the consent of the existing property owner
to tie into that.

MR. VALDINA: We actually don't know
who else has rights over it. It's been a private
road since 1920, so --

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2 MR. DONNELLY: The terms of the
3 agreement are acceptable. I will send you a
4 letter to that effect with instructions on how to
5 record it and present proof of recording. I will
6 leave it in as a condition in checklist fashion
7 for now. Finally, there will be a requirement
8 that one lot, the new lot, pay the fee in lieu of
9 parkland.

10 CHAIRMAN EWASUTYN: Having heard the
11 conditions for approval for the Magyar
12 Subdivision, I'll move for that motion.

13 MR. MENNERICH: So moved.

14 MR. PROFACI: Second.

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

18 (No response.)

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

21 MR. GALLI: Aye.

22 MR. BROWNE: Aye.

23 MR. MENNERICH: Aye.

24 MR. PROFACI: Aye.

25 MR. FOGARTY: Aye.

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MAGYAR SUBDIVISION

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion
carried.

Thank you.

(Time noted: 7:09 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: November 17, 2010

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

----- X

In the Matter of

U-HAUL
(2000-59)

5336 Route 9W
Section 9; Block 3; Lots 32 & 66
B Zone

----- X

SITE PLAN
ARCHITECTURAL REVIEW BOARD

Date: October 21, 2010
Time: 7:09 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: FRANK VALDINA

----- X

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

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U-HAUL

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CHAIRMAN EWASUTYN: Frank, I'll let Cliff introduce the next item and then, since you represent the applicant, you can speak on behalf of U-Haul for us.

Cliff, do you want --

MR. VALDINA: It was withdrawn.

CHAIRMAN EWASUTYN: Excuse me?

MR. VALDINA: It was withdrawn.

CHAIRMAN EWASUTYN: That's what I'm saying. We'll introduce it for the record and you'll speak on it.

MR. BROWNE: The next item of business is U-Haul, being represented by U-Haul International but Frank is going to speak to it.

CHAIRMAN EWASUTYN: Frank Valdina is the consulting engineer for U-Haul.

Just for a matter of record.

MR. VALDINA: For the matter of the record, it has been withdrawn from the agenda. There were some matters that had not been resolved. Rather than take the time of the Board and have to keep coming back, we thought it was more prudent to have all the ducks in a row.

We did finally come to agreement as far

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U-HAUL

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as the entrance width -- the access width which was an important consideration because of access of fire vehicles, emergency access and elements of that nature. We're in the process of finalizing everything. Once everything is in the final stage, we're going to come back to the Board for their consideration.

CHAIRMAN EWASUTYN: Thank you, Frank.

(Time noted: 7:11 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: November 17, 2010

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

----- X

In the Matter of

MADDOX, LLC
(2010-21)

North Plank Road
Section 35; Block 3; Lot 21
B Zone

----- X

CONCEPTUAL TWO-LOT
COMMERCIAL SUBDIVISION

Date: October 21, 2010
Time: 7:11 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JAMES DILLIN

----- X

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

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MADDOX, LLC

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MR. BROWNE: The next item of business is Maddox, LLC. It's a conceptual two-lot subdivision being represented by James Dillin.

MR. DILLIN: Yes. Jim Dillin. Should I put it on the board?

CHAIRMAN EWASUTYN: Put it on the board.

MR. DILLIN: This property was before the Board, I believe, a few years ago, and I believe it had a storage facility approved on it and it got final approval. It also had a reconfiguration of lot lines approved in 2005 which was filed to eliminate a lot around this existing building, which we're attempting now to put another lot around it and sell the lot off.

What we have is an existing 1,900 square foot building. It's fully built out.

I put the parking requirement so I could show you the size of the lot and the areas that we could provide parking would fit the zoning. That's the parking detail up in the upper left-hand corner. With the size of the square footage that we're using, we could supply the spaces for this use. Right now we're just

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MADDOX, LLC

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driving in through these entrances. I don't know if there was any type of -- anything on the other application, only that the State said that the Maddox property to the northwest and this property would have to share in a common entrance. I think they had three entrances when they came in. I don't have anything in writing from the State, but in talking to Larry Service, the funnel of the traffic comes in through this property, through this one area right here. It's being used right now. The building is there. It has a well and septic on it.

Our proposal is to subdivide a 1.28 acre parcel out.

CHAIRMAN EWASUTYN: Thank you, Jim.

At this point I'll turn to our consultants. Jerry Canfield, Code Compliance?

MR. CANFIELD: We discussed at the work session several issues with regard -- the other consultants will bring it up.

We had a question as far as at what point in time will this circled area and that entrance be constructed and be utilized? Is it the intention to do it at this time?

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2 MR. DILLIN: No. That was really just
3 for illustration to show that that size lot would
4 conform to the zoning, that I would have enough
5 area for parking. It's being used right now.
6 The parking is basically in these general areas
7 but I kind of did it for the formula to show that
8 the lot would be big enough to conform with the
9 zoning. It was more pictorial to show that it
10 would conform.

11 MR. CANFIELD: With that, though, did I
12 understand you to say that the DOT would not
13 allow the two separate entrances and they want
14 you to consolidate to the one?

15 MR. DILLIN: That was my understanding.
16 I didn't do the other application but I think
17 Harry had different entrances. I believe it used
18 to be right next to the building. He built a
19 complete stonewall to block off all of this and
20 he had told me that Harry has another property,
21 Maddox, LLC, to the northwest and the State wants
22 everything to funnel through this one area for
23 this entire property. I don't have anything
24 myself from the State but that's the exact
25 location. I'm planning to go to the State to

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MADDOX, LLC

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qualify that location because it is a busy intersection and I want to make sure, before I do a subdivision, that the road is at the exact point that the State wants it. I took this information off the storage shed facility that was approved for that location.

MR. CANFIELD: Just one other question. What's before us is a two-lot subdivision. At this time are you at liberty to discuss the potential or what will happen on lot 2? Are there any plans at this time for utilizing lot 2 --

MR. DILLIN: No plans.

MR. CANFIELD: -- for anything other than what it's being used for right now?

MR. DILLIN: No. He has no plans.

MR. CANFIELD: Okay. That's all I have, John.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: I think that will lead into our comments. By subdividing the parcel, it now has to be brought up to current standards with regard to the bulk table and parking

1 requirements, the access drive. It loses any
2 protections it has under the pre-existing either
3 access that you have or the parking requirements.
4 So it has to be brought up to the current
5 standards.
6

7 I looked at the plans and that was what
8 I thought, was at some time in the future that
9 area in the left-hand corner was going to be
10 constructed, but I believe through subdivision we
11 would also be approving a new site plan that has
12 to meet the current Town standards. So I think
13 it's going to be looking at putting in the access
14 drive, the parking and other improvements shown
15 there prior to being able to proceed with the
16 project because it's a subdivision and you're
17 also looking at the site plan. It needs to
18 comply. DOT's comments obviously will be
19 required to do that.

20 This project previously was before the
21 Board for a self-storage facility which, during
22 work session, I was informed that that approval
23 has lapsed. I was going to have you show the
24 impacts to that but that approval has lapsed. By
25 subdividing this he's probably going to lose the

1
2 ability to do what he wanted to do there
3 previously. I just wanted to put that on the
4 record.

5 I think that right now the plans are
6 going to have to be developed for an actual site
7 plan that complies with the Town's code.

8 CHAIRMAN EWASUTYN: Bryant Cocks,
9 Planning Consultant?

10 MR. COCKS: I also have the same
11 comment as Pat about the need for the
12 construction of the parking lot.

13 Another issue is that the front yard
14 setback of 8.8 feet is an existing nonconforming
15 use. Since the site is being subdivided, 40 is
16 required. So you're going to need to go to the
17 ZBA for a front yard variance. That was the
18 other big issue.

19 This is going to have to be sent to the
20 Orange County Planning Department.

21 The DEC website is going to have to be
22 consulted for information on threatened and
23 endangered species in the EAF.

24 I was just asking, the building is not
25 going to be changed at all; right?

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MADDOX, LLC

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MR. DILLIN: No. No.

MR. COCKS: So no ARB is going to be needed.

MR. DILLIN: Yup.

CHAIRMAN EWASUTYN: Jim, do you want to comment on what our consultants have just spoken about before I turn to the Board Members?

MR. DILLIN: The only thing is the front yard for this existing building I know is pre-existing nonconforming. Are we talking about getting a variance?

MR. DONNELLY: Let me explain that if I can. The Newburgh code provision is a little unusual, and it states that a variance is required unless you make that existing nonconformity more conforming. Meaning if you keep it the same, you need a variance, and that's the consistent interpretation of that language by the Zoning Board. We can refer you for that variance, although you'd have to apply yourself.

The other issue that Pat and Bryant have raised is since you don't meet the current parking requirements, but that's protected because it currently exists, you would similarly

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lose that protection.

So you either need to build the parking at current requirements or get a variance from the parking requirements. Since you're at the Zoning Board anyway, if you wish we can refer it for that purpose and that can be discussed as well.

MR. DILLIN: Okay. The only thing, this was subdivided also in 2009. Wouldn't that have applied also for the building setback?

MR. DONNELLY: I thought I heard you say it was consolidated.

MR. DILLIN: It was consolidated but also these lot lines were moved over, so it was reconfigured.

MR. DONNELLY: Depending upon the date, we may have viewed that as a lot line change and not as a true subdivision, although currently we would have to view that as a subdivision. I can't explain that, I didn't bring that file. It's been the position of the Zoning Board since quite some time before 2009 that a subdivision causes the loss of protection of any dimensional pre-existing noncompliance on the lot. I would

1
2 tell you that many of those have -- those
3 variances, if not all of those variances, have
4 been granted by the Zoning Board, at least for
5 the structure and the building, where there was
6 no proposal to enlarge the building.

7 MR. DILLIN: When you say even if it
8 was granted, with reconfiguring we need it again?

9 MR. DONNELLY: Because you're doing a
10 new subdivision. Unless you had a variance, which
11 would arguably allow it to continue on.

12 MR. CANFIELD: They still need to
13 reapply, though.

14 MR. DONNELLY: If they had a variance,
15 no. Nobody is saying that they did. If you don't
16 have a variance, you need to apply for one now.

17 CHAIRMAN EWASUTYN: Comments from Board
18 Members. Frank Galli?

19 MR. GALLI: Mike, even if he had a
20 variance, doesn't he have to go again because
21 he's now going through subdivision so he loses
22 that variance?

23 MR. DONNELLY: We'd have to look at the
24 terms. The only variance that would have been
25 granted would have been on a subdivision

1 application. Unless the Zoning Board said in its
2 decision that the variance was for this lot
3 configuration and no other, it might be broad
4 enough. I think it's a nonissue because I think
5 Jim acknowledged there was no variance granted.
6 If there was one --

7
8 MR. DILLIN: I don't see one on the
9 map.

10 MR. GALLI: Okay. That's the only
11 question. It was confusing.

12 CHAIRMAN EWASUTYN: Cliff Browne?

13 MR. BROWNE: Based on the comments and
14 the input, I would say the plan as presented at
15 this point is really non-conceptual approval.

16 CHAIRMAN EWASUTYN: Ken Mennerich?

17 MR. MENNERICH: I have no questions.

18 CHAIRMAN EWASUTYN: Joe Profaci?

19 MR. PROFACI: No questions. I agree
20 with what has been said already.

21 CHAIRMAN EWASUTYN: Tom Fogarty?

22 MR. FOGARTY: I just wonder what the
23 plans were insofar as parking. In other words,
24 were you going to leave the parking basically the
25 way it is right now?

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2 MR. DILLIN: The applicant wanted to,
3 but what I'm hearing from the Board is we have to
4 do something, maybe do something, and maybe get a
5 variance for a little bit less. I'm just thinking
6 out loud that maybe I might not want to drive all
7 the way in here, I may want to come in to do this
8 with this project, come in with a short -- I
9 showed it more like a road because it was really
10 conceptual how it could be. We may not want to
11 come in as far. We're going to show probably
12 designs for parking, as the Board says, and get a
13 State entrance permit to come in.

14 CHAIRMAN EWASUTYN: Okay. At this
15 point, Mike, we are in a position to declare our
16 intent for lead agency?

17 MR. DONNELLY: Yes.

18 CHAIRMAN EWASUTYN: And as far as the
19 referral to the ZBA; Jim, are you looking for
20 that?

21 MR. DILLIN: I'm looking for that, yes.
22 Definitely.

23 MR. DONNELLY: Let me suggest, because
24 that variance -- it's a setback variance. I'm
25 wondering -- we may want to suggest to the Zoning

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MADDOX, LLC

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Board that if the variance requested is not a type II, meaning one that's exempt from SEQRA, that we find it permissible for them to handle that on an uncoordinated basis and they can issue their own SEQRA determination as they see fit. If you wish me to write that letter, I will include that in the letter.

CHAIRMAN EWASUTYN: Then we'll first make a motion to declare our intent for lead agency for the Maddox two-lot subdivision.

MR. WARD: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Myself. So carried.

At this point I'll make a recommendation that Mike Donnelly prepare a letter to the Zoning Board of Appeals in reference to the application of Maddox.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

Thank you.

MR. DILLIN: Okay. Thank you.

(Time noted: 7:22 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: November 17, 2010

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

----- X

In the Matter of

53 MAPLE AVENUE, LLC
(2010-18)

Orchard Drive
Section 1; Block 1; Lot 138.1
AR Zone

----- X

TWO-LOT SUBDIVISION
SITE PLAN

Date: October 21, 2010
Time: 7:22 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

1
2 MR. BROWNE: Our next item of business
3 is 53 Maple Avenue. It's a two-lot subdivision
4 and site plan being represented by Lawrence
5 Marshall.

6 MR. MARSHALL: This is a proposed two-
7 lot subdivision on Orchard Drive in the AR zoning
8 district.

9 At the last meeting there were several
10 comments that were requested, including showing
11 four parking spaces on lot 6 as well as a blow-up
12 view to show the detail, and a couple others.

13 We've addressed the comments of the
14 Town's consultants with the exception of
15 providing a written response from the Orange
16 County Health Department. We had requested an
17 opinion in writing from Mr. Ed Bankie from the
18 Orange County Health Department who I had a
19 conversation -- phone conversation with. I have
20 not received any correspondence back from him
21 yet, but he did indicate on the phone that given
22 the situation that we had discussed over the
23 phone and the history of this project, he felt
24 that this reallocation of lands, which the Town
25 considers a two-lot subdivision, would not

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constitute this to be a realty subdivision. I just have not received any correspondence back from him yet.

CHAIRMAN EWASUTYN: Okay. At this point I'll turn to our consultants. Jerry Canfield, Code Compliance?

MR. CANFIELD: I have nothing on this.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Our previous comments have been addressed. They've modified the septic system and added the existing and proposed lot sizes per our comments, so we have nothing outstanding.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I got the plans late but I did check them over and the applicant addressed all of our comments.

We received a Local determination from the Planning Department, and he did add the four parking spaces as requested.

CHAIRMAN EWASUTYN: Thank you. Frank Galli, Board Member?

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MR. GALLI: No additional comments.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: The comment referred to from the Orange County Planning --

MR. MENNERICH: Health.

MR. BROWNE: -- Health Department, excuse me, how does that tie into what I just heard from our consultants, that you're satisfied with everything?

MR. HINES: Because this project was before you a year ago for a subdivision. Now it's back for a lot line change, which is also in your regulations for subdivision. Whether or not that condition constitutes a major subdivision, the County Health Department would have to review it. Lawrence has spoken to them and he's provided me with an e-mail conversation back and forth confirming what he said. We don't have anything official from the Health Department. It needs a public hearing because it is a subdivision. I think that it would be appropriate to schedule that.

MR. BROWNE: You're satisfied with the e-mails back and forth?

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MR. HINES: I think between now and the public hearing, hopefully we'll have that correspondence so we can take an action.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No questions.

CHAIRMAN EWASUTYN: I'll move for a motion then to declare a negative declaration on 53 Maple Avenue, LLC for a two-lot subdivision and site plan and schedule the 18th of November for a public hearing.

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 start with

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Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself aye. The motion is carried.

MR. DONNELLY: John, a notice will need to be sent to the town clerk of the Town of Plattekill at least ten days before the date of the hearing.

CHAIRMAN EWASUTYN: Larry, would you work with Bryant Cocks as far as the circulation and the mailing?

MR. MARSHALL: Sure.

CHAIRMAN EWASUTYN: And, if possible, the Tuesday before the meeting we'd like to receive the certified return receipts.

MR. MARSHALL: Sure.

(Time noted: 7:27 p.m.)

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

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

DATED: November 17, 2010

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

----- X

In the Matter of

LANDS OF DAVIS
(2010-22)

358 Gardnertown Road
Section 34; Block 1; Lot 52.1
R-3 Zone

----- X

CONCEPTUAL TWO-LOT SUBDIVISION

Date: October 21, 2010
Time: 7:27 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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MR. BROWNE: The next item of business is the Lands of Davis. It's a conceptual two-lot subdivision being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties. I'm here on behalf of William and Shirley Davis for a two-lot subdivision of their property up here on Gardnertown Road. This parcel is one of the four parcels, I believe, that makes up the five parcels that make up the Driscoll Subdivision.

The Davises have about 17 acres -- a little more than 17 acres. As part of the subdivision, if you look at the plan you'll notice there was a lot cut off which included their existing house. What we're proposing to do here is to cut that lot off now and not wait for the rest of the subdivision to be perfected so the Davises can build a new residence on that property.

We have been dealing with the Building Department and the Town Board regarding posting a bond for removal of that residence after the new residence is constructed. The plan also incorporates a slight modification to the road

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that will come in.

This is a sketch of the Driscoll plan. This road moves slightly just to give them a little bit. The entry locations remains in the same spot. The basic lot is the same as what was originally proposed.

What we'd like to do is subdivide that off now and get the Davises a new house.

MR. DONNELLY: Is the Driscoll map filed?

MR. WINGLOVITZ: No. Preliminary approval.

MR. DONNELLY: Okay.

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

MR. CANFIELD: This subdivision and the shifting of the road, as Ross had said, will help the new residence comply with the front yard setback. Currently the existing structure, the front yard setback is Gardnertown Road. With the creation of the new road, that will now be the front yard and with the shifting of the road in this subdivision where the property line is, the new residence will comply. As Ross said, I'd

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like to confirm that.

His narrative stated we do have a septic design before us, which we do. The Town is in the process of entering into an agreement in some type of securities to further facilitate the construction of the new home for the Davises and the demolition of the old home. That's in process right now.

Other than that, we have no further comments on the subdivision.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We didn't have any comments on it. Our comments would have been that we don't have the septic design and the well locations and such. After learning Jerry Canfield's office is handling that through a building permit application at this time, we would defer to his office for that review.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Just a couple of notes that have to go on the plan, one saying a demolition permit will be required and the other stating

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foundation staking should be placed for the houses to meet the setback requirements.

The bulk table just needs to be revised to show the actual dimensions of the lot.

We saw a comment from Ken Wersted about the driveway connecting to the Driscoll roadway. Were you guys still planning on utilizing the existing driveway and never hooking up to the road or --

MR. WINGLOVITZ: That's going to remain.

MR. COCKS: It's going to remain. Okay.

CHAIRMAN EWASUTYN: Mike Donnelly, do you have anything to add at this time?

MR. DONNELLY: Yes. Ross had asked me earlier in the day whether or not this could be approved without a public hearing. I was assuming that Driscoll was already a filed map and this was a resubdivision, and I told him that I didn't believe that that could be done. Now, knowing that this has only received preliminary approval and the full SEQRA was done and that preliminary approval was granted, I see this, in

1 reality, as an amendment of that preliminary
2 approval and an advancement of a two-lot
3 subdivision before the balance is considered.
4 The standard of whether you need a new public
5 hearing is the provision of the Town Law that
6 says you need not hold a hearing if what is
7 before you is in substantial conformance with
8 what was already preliminarily approved. So if
9 you view this as a minor adjustment to what was
10 already given preliminary approval, and an
11 advancement of, I'll call it the first phase, for
12 want of a better way to look at it, of a two- lot
13 subdivision, I believe that you could approve
14 this without the need of holding the public
15 hearing. The only thing that we might need to do
16 would be to issue an amended findings statement
17 simply indicating there are no environmental
18 issues; and, in order to accommodate the needs of
19 the existing residence, that the two-lot
20 subdivision was approved in advance of the
21 balance of it. If that's a reasonable approach,
22 I think that's legally permissible.
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24 CHAIRMAN EWASUTYN: Frank Galli, how do
25 you feel about the presentation that Mike

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Donnelly has just presented to us?

MR. GALLI: I have no problem not holding a public hearing on it.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I appreciated the explanation, and I agree with Frank Galli. I don't believe a public hearing would be necessary under those conditions.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I also agree no public hearing is necessary.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: That would be fine with me.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I agree a public hearing is not needed.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I agree about the public hearing, what Mike said.

CHAIRMAN EWASUTYN: Okay. Mike, so the first action would be an amended site plan -- excuse me, amended findings statement?

MR. DONNELLY: I'm not convinced that

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2 it needs it, but in the abundance of caution I
3 think you can, for now, articulate that there are
4 no new issues that are raised by what is
5 proposed. We have information before us that the
6 rationale is simply to accommodate the needs of
7 an existing resident who wishes to build a new
8 house without first demolishing the one they live
9 in, and that therefore, consistent with the SEQRA
10 analysis, there's no need to conduct a
11 supplemental environmental review. Given that
12 what is presented is in substantial conformance
13 with the approved preliminary plat, you will
14 approve a two-lot subdivision. I think you're
15 going to need to present a two-lot subdivision
16 plat for signature, though.

17 MR. WINGLOVITZ: Correct.

18 MR. DONNELLY: And that there are no
19 conditions other -- at this juncture I don't
20 think there's any bonding requirement. There's
21 no need to pay, at this juncture, any fee in lieu
22 of parkland. It's a simple two-lot subdivision.
23 A plan will have to be submitted that shows just
24 the two lots because that's all you can file.

25 MR. WINGLOVITZ: This?

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MR. HINES: That plan does.

MR. DONNELLY: Okay. All right. I don't have the resolution with me because I misunderstood this. I don't see why you can't vote on it and I'd prepare it afterward. It is that straightforward. Would you determine under SEQRA that there are no new issues to address and approve a two-lot subdivision finding what is proposed is in substantial conformity, although just one piece of it, to the approved preliminary plat and therefore you not need to hold a public hearing, so you grant a final approval to the two-lot subdivision.

CHAIRMAN EWASUTYN: Having heard Mike's presentation as far as being minor adjustments to the original project that received preliminary approval, Mike would memorialize this in a resolution, and based upon the discussion that's part of the record now, the Board finds no need to hold a public hearing, and we'll require the motion. The second part of the motion is the Board moves to grand approval for the two-lot subdivision for the lands of Davis.

MR. PROFACI: So moved.

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MR. GALLI: I have a question.

CHAIRMAN EWASUTYN: I have a motion --

MR. MENNERICH: Second.

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

MR. GALLI: Yeah. Mike, just so if we
approve the subdivision, it's no longer
preliminary approval, it's going to be final
approval now?

MR. DONNELLY: The preliminary will
stay in place for the entire project.

MR. GALLI: Okay.

MR. DONNELLY: You're granting final
approval to a two-lot version. It's almost as if
it's a phased plan but it's not that.

MR. GALLI: I'm fine.

CHAIRMAN EWASUTYN: We had a motion by
Joe Profaci. We had a second by Ken Mennerich.
We had discussion by Frank Galli. Any further
discussion?

(No response.)

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

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LANDS OF DAVIS

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. The motion was carried. Thank you.

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

(Time noted: 7:36 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: November 17, 2010

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

----- X
In the Matter of

PINNACLE SUBDIVISION
(2003-62)

River Road
Section 43; Block 5; Lot 17.2
R-1 Zone

----- X

TWO-LOT SUBDIVISION
SITE PLAN

Date: October 21, 2010
Time: 7:36 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- X

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

1
2 MR. BROWNE: The next item of business
3 we have on our agenda is Pinnacle Subdivision, an
4 amended conceptual two-lot subdivision, being
5 represented by Greg Shaw.

6 MR. SHAW: Pinnacle Subdivision was
7 approved by this Board in 2006, 2007. It's a 21-
8 lot subdivision on River Road in the R-1 Zoning
9 District. Those drawings were approved, filed in
10 Goshen, and for the most part all the
11 infrastructure is built out.

12 Two of the lots on River Road,
13 designated as lots number 19 and 20, were to
14 share a common driveway. It was an existing
15 driveway from which you entered the Oblates
16 facility from River Road. On one of the lots,
17 that being lot 19, a house has been built and has
18 been for sale now probably for about a
19 year-and-a-half. They have a buyer but the buyer
20 does not wish to have a common driveway. So what
21 we need to do is to extinguish the right-of-way
22 over that lot, that lot being lot 19, and create
23 a new driveway from River Road for lot 20. Lot
24 20 is the benefit of the right-of-way that we
25 would like to extinguish.

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2 Nothing on the drawings has changed
3 from that which this Board approved. The metes
4 and bounds, the lot area, the setbacks are all
5 identical. Again, the only changes to the
6 drawing are the extinguishing of the
7 right-of-way, the creation of a new driveway for
8 lot 20 and the buffer area that we've created on
9 the drawing to separate the two driveways of lots
10 19 and 20.

11 I think this has been under discussion
12 with the Board probably now for about four or
13 five months as to whether it formally needed
14 Planning Board approval or whether it could be
15 done with an amendment or some other type of
16 legal document filed in the clerk's office. I
17 think the conclusion has been, from the
18 attorneys, that we do have to make application to
19 this Board to officially get a drawing filed in
20 the clerk's office to amend the previously
21 approved subdivision plan, and that is the
22 purpose of coming before you tonight.

23 CHAIRMAN EWASUTYN: Thank you.

24 Mike Donnelly, would you care to pick
25 up where Greg Shaw has left off?

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2 MR. DONNELLY: Yes. I had discussions
3 with the applicant's attorney and we agree with
4 amended subdivision approval because the shared
5 driveway is both filed in the clerk's office and
6 there's a recorded easement. To undue it we'll
7 have to do the same level of formality, that is a
8 new filed map. Obviously there's no other
9 change. You need to be comfortable with allowing
10 that additional driveway. There was, after all, a
11 rationale for the shared driveway initially, but
12 you've heard an explanation as to why it does not
13 work.

14 I think it would require, since it is
15 an amendment to a filed map, a new public
16 hearing. I don't see any SEQRA issues that are
17 raised. I think you could put it on for that
18 hearing as soon as you can schedule it.

19 CHAIRMAN EWASUTYN: At this point I'll
20 turn to our consultants for any of their
21 comments. Jerry Canfield?

22 MR. CANFIELD: I have nothing.

23 CHAIRMAN EWASUTYN: Pat Hines, Drainage
24 Consultant?

25 MR. HINES: We were just suggesting the

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highway superintendent weigh in on the driveway location.

Our other comment was regarding Mike Donnelly's review of the extinguishment of the easement. That's all we have.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The only issue that I had that didn't come up was the landscaping that's going to be installed on lot 19. Is that going to need a separate bond to be submitted since this is new proposed landscaping?

MR. SHAW: I would hope not but it's not my final decision.

MR. DONNELLY: If Karen says there's more than enough money in the existing bond to cover it, it wouldn't. If there isn't, then it would. I think she would need to look at it.

MR. COCKS: That was it.

CHAIRMAN EWASUTYN: Greg, when you have the time would you contact Karen Arent in writing and get back to us, or have Karen get back to us as far as if there's a necessity for a separate bond or if the original bond was adequate enough

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to cover these plans?

MR. SHAW: I'll take care of that.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: I don't remember at the public hearing whether there was anybody complaining about two driveways.

MR. HINES: I think there was because the Oblates' entrance was there. They were going to use that as an entrance feature is what I remember.

MR. GALLI: Was there Davis across the street?

MR. SHAW: No. The reason we used it, it was my suggestion at the time, because that was the main entrance to the Oblates, and with the main road coming in further to the north, it just made sense because I thought it was a nice feature to have it access two lots. To the best of my knowledge there were no comments generated by the public at all.

MR. GALLI: That's all I had.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: There's a stonewall there,

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correct or am I wrong?

MR. SHAW: There is a stonewall, yes.

MR. BROWNE: Didn't we have comments originally to maintain that as much as possible? That would be a -- I don't know if it has to be on there or not.

MR. SHAW: What the drawings indicate is that they're going to remove the stonewall for the new driveway to go through and use the stone that's available to build an entrance -- to build a wing wall on each side. It's not going to be a square end of a wall. It's going to have a flare to it to try to create a defined entrance. That's all noted on the drawings.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Could the Planning Board waive the public hearing for this?

MR. DONNELLY: Well, there is a provision that when a preliminary plat has been approved and the final comes in, there's no need to hold a public hearing if the plat is in substantial conformance. Generally speaking, where a map has been filed and there's a

1
2 resubdivision, you've held public hearings. If
3 you want to go out on a limb and waive it, but
4 there's no authority in State law to waive a
5 public hearing on a new subdivision application
6 even for a minor change like this.

7 CHAIRMAN EWASUTYN: Joe Profaci?

8 MR. PROFACI: No questions.

9 CHAIRMAN EWASUTYN: Tom Fogarty?

10 MR. FOGARTY: I have no comments.

11 CHAIRMAN EWASUTYN: John Ward?

12 MR. WARD: Karen's notes said about
13 preserving the trees around the new proposed
14 driveway. I think there's a thirty-inch tree.

15 MR. SHAW: There are no existing trees.
16 You'll notice on the drawing I have designated a
17 twenty-inch Norway Spruce, and I have it
18 designated as the most southerly tree. That's the
19 closest substantial tree with respect to our
20 driveway, and you can see at a scale of, I
21 believe, one inch equals twenty, we're probably
22 forty, fifty feet away from it.

23 MR. WARD: Very good.

24 MR. HINES: The other large tree is by
25 the other driveway.

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MR. SHAW: That's the other lot.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to declare a negative declaration -- one, I'll move for a motion to grant conceptual approval for the amended 21-lot subdivision for Pinnacle.

MR. FOGARTY: So moved.

MR. WARD: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes.

I'll make it two parts to this motion, that we declare a negative declaration for the

1
2 amended 21-lot subdivision for Pinnacle and
3 schedule the 18th of November for a public
4 hearing.

5 MR. WARD: So moved.

6 MR. FOGARTY: Second.

7 CHAIRMAN EWASUTYN: I have a motion by
8 John Ward. I have a second by Tom Fogarty. Any
9 discussion of the motion?

10 (No response.)

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

13 MR. GALLI: Aye.

14 MR. BROWNE: Aye.

15 MR. MENNERICH: Aye.

16 MR. PROFACI: Aye.

17 MR. FOGARTY: Aye.

18 MR. WARD: Aye.

19 CHAIRMAN EWASUTYN: Myself. So
20 carried.

21 If you'll work with Bryant Cocks as far
22 as the mailing and such. The Tuesday before the
23 meeting, if you could get a copy of the return
24 certified receipts.

25 MR. SHAW: Fine. Thank you.

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(Time noted: 7:43 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: November 17, 2010

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

----- X
In the Matter of

THE MARKETPLACE AT NEWBURGH
(2004-54)

Request to be Placed on the Consultants'
Work Session of 10/26/10

----- X

BOARD BUSINESS

Date: October 21, 2010
Time: 7:43 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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CHAIRMAN EWASUTYN: We just have a few items of Board Business and then we'll be able to end the meeting.

MR. BROWNE: The Marketplace at Newburgh, we had a presentation.

CHAIRMAN EWASUTYN: The item before us this evening is to set The Marketplace for a consultants' work session on the 26th of October. I'll move for that motion.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes.

(Time noted: 7:44 p.m.)

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DATED: November 17, 2010

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

----- X
In the Matter of

DISCUSSION BY MICHAEL DONNELLY, ESQ.
RE: LOCAL LAW #9

----- X

BOARD BUSINESS

Date: October 21, 2010
Time: 7:44 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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2 MR. BROWNE: The next item is Mike
3 Donnelly, a discussion of his October 15th letter
4 to the Board regarding Local Law #9.

5 MR. DONNELLY: As you remember, you
6 discussed this local law at your meeting last
7 month. I had pointed out to you that Section
8 185-60 of the Ordinance requires that you report
9 on five specific factors to the Town Board. I
10 had taken some notes at that meeting. I prepared
11 a draft letter to report back to the Town Board
12 in which I inserted, under each of those five
13 headings, what I thought I heard to be the items
14 that you've discussed.

15 One of the things that you had talked
16 about, and is included as a recommendation, is
17 the Town Board give some consideration to how
18 they wish to handle existing approved projects
19 that have not yet either filed their maps, or, in
20 the case where they have, haven't begun
21 construction ,because the definitional provisions
22 will affect all residential development to some
23 extent, and some rather significantly.

24 I received, as we were at the meeting
25 here this evening, an e-mail from Mark Taylor in

1 which he proposed to meet that concern through
2 enactment of a second local law, and he wished
3 that you report your reaction to it. We
4 discussed it briefly at work session, but in
5 essence the proposal would be that the building
6 envelop and buildable area standards that would
7 be a part of this law, those definitional
8 provisions and standards shall not apply to the
9 residential lots in any proposed subdivision
10 which has duly received preliminary approval from
11 the Planning Board prior to November 1, 2010.
12 And further, that the usable area standards of
13 the local law shall not apply to any residential
14 lot which has received preliminary or final site
15 plan approval from the Town of Newburgh Planning
16 Board, again, prior to November 1, 2010. In the
17 case of both of those grandfatherings, that the
18 protection afforded would last for three years
19 from the November 1, 2010 date, within which time
20 period each of those affected lot owners would
21 need to apply for a building permit. If that
22 suggestion is one that makes sense, if you think
23 it's simply for the Town Board to make the
24 determination, you just wish to raise the issue,
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I'll include whatever you want to put in your report letter.

CHAIRMAN EWASUTYN: We'll open it up for discussion.

MR. GALLI: I'm fine with that.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: I have a lot of thoughts about it. From a technical standpoint it seems appropriate. The net effect of the applications that are in process or before us essentially would mean then that -- I can't think of the name --

CHAIRMAN EWASUTYN: Grandfather.

MR. BROWNE: Yeah. We would be dealing with those projects the way they were when they applied.

MR. DONNELLY: Only those projects that have already been approved as of the November 1, 2010 date.

MR. HINES: Preliminary approved.

MR. DONNELLY: Preliminary for the building envelop and building area standards, preliminary or final for the usable area standard. As examples we talked about Golden

1 Vista, Gardnertown Commons, Gardiner Ridge.
2 You'd have to look at them individually to know
3 the extent of the impact. The change in
4 definitional provisions and going for all
5 purposes to a usable area standard would affect
6 any project that had wetlands, or steep slopes,
7 or other excludable areas. I think the idea here
8 is that this being a recommendation from the
9 comprehensive development plan should work on a
10 prospective basis and not catch an already
11 approved, unwary holder of an approved site plan
12 or subdivision plat unaware. Mark Taylor's
13 proposal is there's a method of achieving some
14 degree of fairness. I can't tell you how it would
15 affect every project. I can't tell you how many
16 projects it would affect. It would take some leg
17 work to do that.

18
19 CHAIRMAN EWASUTYN: May I have the
20 table? I would move for a motion from the Board
21 to have Bryant Cocks, our Planning Consultant, do
22 a review of all the applications that we're
23 guessing at now and present a list so we know for
24 the record what projects have preliminary
25 approval, so the Town Board then could also have

1
2 an idea as to the scope of the verbiage that are
3 going to be made part of the record.

4 MR. DONNELLY: It is going to be a
5 separate local law so you can still report on the
6 first one. I would note, if you wish, in the
7 letter that you're going to take stock of what
8 the applications that might be affected are and
9 report further on the new proposal.

10 CHAIRMAN EWASUTYN: Is the Board in
11 favor of that?

12 MR. GALLI: Yes.

13 MR. WARD: Yes.

14 MR. MENNERICH: When you say those
15 projects, are we only focusing on the projects
16 that have affordable housing components?

17 MR. DONNELLY: No. These changes may
18 well affect many residential approved projects,
19 because only one piece of the law changes the
20 extent or the degree of the density bonus given
21 to affordable housing. The definitional
22 provisions affect all residential housing.

23 CHAIRMAN EWASUTYN: Then let the
24 minutes show that Bryant -- there was an approval
25 by the Planning Board to have Bryant Cocks

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compile a list of all projects that received preliminary approval from 2010.

Correct, Mike?

MR. DONNELLY: All of those that currently have valid approvals.

CHAIRMAN EWASUTYN: Valid approval.

MR. DONNELLY: Then I guess to take a look to see whether or not they would be affected, and, if so, in rough terms to what extent.

MR. COCKS: Okay.

MR. BROWNE: So then we'll be deferring our response until we get the report back?

CHAIRMAN EWASUTYN: The first part we'll be responding to, and that's the local law. There's two parts to this.

Mike, one more time.

MR. DONNELLY: Mark is not proposing to change the existing local law, the Town Board wishes to consider that as is. He's proposing to enact a separate local law that will, after the fact, provide grandfathering. So I believe you could report your feelings and recommendations on the first local law and advise the Board that

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you're going to take stock of the number of projects affected and report back on the second local law proposal after you have done so.

MR. BROWNE: That's what I was trying to get to. Okay. Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: That's fine.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I agree.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: Mike, when it comes to the impact that this is going to have on affordable housing, I saw somewhere in one of the documents that if you had 100 gross acres of which 50 were usable, now the density would be based not on 100 but on 62.5.

MR. DONNELLY: That's correct. And that would be for all housing.

MR. FOGARTY: Okay.

MR. COCKS: That's just for affordable. They have a chart in the new local law which says the percentages of land to be deducted. Under affordable housing you deduct 75 percent of the usable area. So if there's 50 gross acres, that

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means there's 50 that aren't usable, so 75 percent of the 50 is what you deduct. So that's how it would end up.

MR. DONNELLY: Maybe I'm incorrect. The concept of using usable area is going to apply to all residential development.

MR. COCKS: That's right for each individual housing type.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I agree with everything.

CHAIRMAN EWASUTYN: Then Mike Donnelly will prepare a letter.

MR. DONNELLY: I'll send the letter in essentially the form it's in now, changing the grandfathering provision to reflect a subsequent report after the local law and Bryant's report are finished.

CHAIRMAN EWASUTYN: And you should mention it's a follow up to the letter you prepared dated October 15th.

MR. DONNELLY: I didn't send that one.

CHAIRMAN EWASUTYN: I did circulate that.

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MR. DONNELLY: That's probably where
Mark --

CHAIRMAN EWASUTYN: If I receive it in
the office --

MR. DONNELLY: Okay.

CHAIRMAN EWASUTYN: -- and it says -- I
know originally I thought we were going to
discuss it further the night of the meeting,
meaning tonight, and the letter came out and I
felt obligated to circulate it.

MR. DONNELLY: I'll note in the letter
this is a letter you earlier saw in draft form.
The Planning Board is now sending it as its final
report.

CHAIRMAN EWASUTYN: That's probably my
mistake. If it comes in one door, it goes out
the next door. All right.

(Time noted: 7:54 p.m.)

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DATED: November 17, 2010

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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: October 21, 2010
Time: 7:54 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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CHAIRMAN EWASUTYN: The last reminder is we'll see everyone on the 6th of November. I will be driving. I will check the gas. I'll make sure to get there earlier to warm up the van so it's at the proper temperature.

I'll move for a motion that we close the Planning Board meeting of the 21st of October.

MR. GALLI: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 7:55 p.m.)

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DATED: November 17, 2010