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

----- X

In the Matter of

LANDS OF REED & GRECO
(2009-04)

398 & 404 Candlestick Hill Road
Section 6; Block 1; Lot 55.1
AR Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: October 1, 2009
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
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE

----- X

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

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LANDS OF REED & GRECO

MR. BROWNE: Good evening. Welcome to the Town of Newburgh Planning Board meeting of October 1, 2009. At this time we'll call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. FOGARTY: Present.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on the business before us including SEQRA determinations as well as code and planning detail. I ask them to introduce themselves.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

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

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LANDS OF REED & GRECO

MR. COCKS: Bryant Cocks, Garling Associates.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

MR. BROWNE: At this time I'll turn the meeting over to Frank Galli.

(Pledge of Allegiance.)

MR. GALLI: Please turn off your cell phones.

MR. BROWNE: The first two items on our agenda this evening are both public hearings and they're both two-lot subdivisions. Before we commence with that I would ask Mike Donnelly to give us a brief overview as to the purpose of a public hearing.

MR. DONNELLY: As Cliff Browne mentioned, the first two items are subdivision applications. Under New York State law, before subdivision approval can be granted a public hearing must be held. The purpose of the public hearing is for members of the public to bring to the Planning Board's attention issues that the

1 Board may not have discovered themselves or that
2 have not been brought to their attention by their
3 consultants. After the applicant makes a
4 presentation the Chairman will ask anyone from
5 the public if they want to be heard. If you'd
6 like to be heard, please raise your hand and
7 you'll be recognized. When you come forward, if
8 you tell us your name and spell it for our
9 Stenographer so we get it down correctly, that
10 would be helpful. Also, if you can give us some
11 idea where you live in relation to the project,
12 it helps the Board understand your perspective.
13 If you have questions you can put them to the
14 Chair and he will direct them to the applicant's
15 representative or the consultants as the case may
16 be.
17

18 MR. BROWNE: Thank you. The first
19 public hearing we have is for the lands of Reed
20 and Greco. It's a two-lot subdivision being
21 represented by Darren Doce of Doce Associates.

22 MR. MENNERICH: "Notice of hearing,
23 Town of Newburgh Planning Board. Please take
24 notice that the Planning Board of the Town of
25 Newburgh, Orange County, New York will hold a

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LANDS OF REED & GRECO 5

public hearing pursuant to Section 276 of the Town Law on the application of lands of Reed and Greco for a two-lot subdivision on premises Candlestick Hill Road on the Ulster County border in the Town of Newburgh, designated on Town tax map as section 6; block 1; lot 55.1 and section 6; block 1; lot 55.2. Said hearing will be held on the 1st day of October 2009 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 September 9, 2009."

MR. GALLI: The notice was published in The Mid-Hudson Times on 9/23/09, in The Sentinel on 9/18/09. Nineteen were sent out, one was returned undeliverable and twelve were returned signed for. The publications and mailings are in order.

CHAIRMAN EWASUTYN: Darren, if you'd make your presentation.

MR. DOCE: Thank you. I'm Darren Doce representing the Reeds and the Grecos.

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LANDS OF REED & GRECO

The Reeds are purchasing a twenty-foot wide strip of land to the east of their parcel from the Grecos to add to their lot. Their lot is currently 29,000 square feet plus or minus. It will be 35,000 square feet once the lot line change is completed.

The Greco parcel is in excess of twelve acres and will remain in excess of twelve acres.

The Reed parcel is an existing nonconforming lot. It was nonconforming to a handful of items. We were directed to the Zoning Board of Appeals. We received our variances and we're back before the Board to finalize the lot line change.

I believe all the comments -- we addressed the comments from the Board's consultants. We just added the flood plain and there was -- the parking lot designations were added to the plans.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: He addressed all of our previous comments and we have nothing further at this time.

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LANDS OF REED & GRECO

CHAIRMAN EWASUTYN: Pat Hines, Drainage
Consultant?

MR. HINES: Our previous comments were
addressed. The Board waived the topography on
the balance of the parcel.

The flood plain mapping was updated per
the recent changes in the mapping. So all of our
previous comments were addressed.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing
additional.

CHAIRMAN EWASUTYN: Is there anyone
here this evening from the public who has any
questions or comments, would you please raise
your hand and give your name and your address.

(No response.)

CHAIRMAN EWASUTYN: At this time
there's no one in the audience who has any
questions or comments, I'll turn to the Board
Members for their final comments. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: Nothing.

MR. MENNERICH: Nothing.

MR. FOGARTY: No.

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LANDS OF REED & GRECO

MR. WARD: No additional.

CHAIRMAN EWASUTYN: At this point I'll move for a motion from the Board to close the public hearing for the two-lot subdivision for the lands of Reed and Greco.

MR. FOGARTY: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike Donnelly, Planning Board Attorney, can you give us conditions of approval please?

MR. DONNELLY: The resolution is for conditional -- for preliminary and final subdivision approval. In addition to the usual findings, I've included findings on the waiver of

1
2 the parcel topographic information which is not
3 shown on the plans. The approval will require
4 that the applicant convey the severed lands that
5 are shown as parcel A on the map to the adjoining
6 parcel, which is the purpose of the lot line
7 change. The applicant shall be required to show
8 me the proposed documents before the resolution
9 is signed and then record those at the time the
10 map is filed and copy us in a letter or
11 transmittal of that deed.

12 In addition, if the map note is not
13 already there, the applicant will have to add a
14 map note that says from the best available
15 knowledge there are no buried utilities within or
16 adjacent to the lot line change area.

17 Encroachments create violations of the State
18 Sanitary Health Code.

19 So these are the resolution conditions.
20 It will also tie in the grant of the variance by
21 the Zoning Board.

22 CHAIRMAN EWASUTYN: Any comments from
23 Board Members?

24 MR. GALLI: No additional.

25 MR. BROWNE: None.

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LANDS OF REED & GRECO

MR. MENNERICH: No.

MR. FOGARTY: No additional.

MR. WARD: No.

CHAIRMAN EWASUTYN: I'll move for a motion to grant the two-lot subdivision for lands of Reed and Greco subject to the conditions of final approval that were stated by our Attorney, Mike Donnelly.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. 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. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Thank you, Darren.

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MR. DOCE: 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: October 20, 2009

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

----- X

In the Matter of

LANDS OF NAPOLITANO
(2009-10)

Dee's Way off Laurie Lane
Section 39; Block 1; Lot 65
R-3 Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: October 1, 2009
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
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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Wallkill, New York 12589
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LANDS OF NAPOLITANO

MR. BROWNE: The next item of business is the second public hearing, again a two-lot subdivision. This is the lands of Napolitano being represented by Engineering Properties, Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties --

MR. GALLI: Hold on. I have to do the notices.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Napolitano for a two-lot subdivision on premises Dee's Way off Laurie Lane in the Town of Newburgh, designated on Town tax map as section 40; block 4; lot 3.0 and section 39; block 1; lot 75.0. Said hearing will be held on the 1st day of October 2009 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

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LANDS OF NAPOLITANO 14
of Newburgh Planning Board. John P. Ewasutyn,
Chairman, Planning Board Town of Newburgh. Dated
September 9, 2009."

MR. GALLI: The notice of hearing was
published in The Mid-Hudson Times on 9/23/09 and
in The Sentinel on 9/18/09. Six notices were
sent out, five were returned. All the mailings
are in order.

CHAIRMAN EWASUTYN: Thank you. Ross.

MR. WINGLOVITZ: Good evening. Ross
Winglovitz with Engineering Properties here on
behalf of the lot line change plan for the lands
of Napolitano.

This is an addition of property to an
existing -- pre-existing small lot. The lot is
currently 0.43 acres. A small portion of the
property, the rear lot, which is a lot that's
59.7 acres, will be taken from that lot, added to
the front lot, and the new lot area for
Napolitano will be 0.61 acres and the remaining
lands will be 59.52 acres.

There's no proposed construction.
There's an existing house on the property.

CHAIRMAN EWASUTYN: At this point is

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LANDS OF NAPOLITANO

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there anyone here from the public that has any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: I'll turn to the Board -- our Consultants for their advice. Bryant Cocks, Planning Consultant?

MR. COCKS: We have nothing further on this.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have no outstanding comments.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: We have nothing additional.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: None.

MR. MENNERICH: None.

MR. FOGARTY: No questions.

MR. WARD: None.

CHAIRMAN EWASUTYN: At this point I'll move for a motion to close the public hearing on the two-lot -- close the public hearing for the

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LANDS OF NAPOLITANO

two-lot subdivision for the lands of Napolitano.

MR. GALLI: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike Donnelly, Planning Board Attorney, can you give us conditions for approval?

MR. DONNELLY: Again this is a resolution of subdivision approval. Actually the applicants are Virginia Napolitano, William Simmons and William and Patricia Danker because their lands are involved as well.

In addition to the usual findings in the resolution we've included language regarding a partial waiver of topographical information.

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Also, because the degree of non-conformity is being decreased in regard to this application, I've included a section that explains why a variance was not required.

The resolution conditions will require the conveyance and proof of the conveyance of the lands that are shown to be conveyed to Napolitano and Simmons, and the map note that I mentioned in regard to the other applicant earlier will have to be placed on the plans as well.

We'll need proof of recording of the deed after the plat has been filed with the County Real Property Tax Service.

CHAIRMAN EWASUTYN: Okay. Any questions from the Board Members?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. FOGARTY: None.

MR. WARD: None.

CHAIRMAN EWASUTYN: Then I'll move for an approval for the two-lot subdivision for the lands of Napolitano and Danker as was presented by our Planning Board Attorney, Mike Donnelly.

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LANDS OF NAPOLITANO

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. WINGLOVITZ: Thank you.

(Time noted: 7:13 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 20, 2009

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

----- X
In the Matter of

HL RENTALS
(1997-18)

Route 52 between Brookside Road & Pepsi Drive
Section 73; Block 13; Lots 7.1 & 7.2
B Zone

----- X

SITE PLAN

Date: October 1, 2009
Time: 7:13 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
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

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HL RENTALS

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MR. BROWNE: The next item of business we have is a site plan, HL Rentals. It's being represented by Zen Design, Ken Lytle.

MR. LYTLE: Good evening. Ken Lytle representing HL Rentals back here with an amended site plan.

Upon actual review by the fire department there was a second means of egress required for the upstairs, and in doing so we required a zoning variance. We have since been to the Zoning Board and received a variance and we're back here tonight for the amended site plan approval.

CHAIRMAN EWASUTYN: Comments from our consultants. Jerry Canfield?

MR. CANFIELD: Nothing. As we discussed in the work session, the additional exiting requirements were as a result of the variance.

The only additional thing we had discussed was I believe you went to the Zoning Board on the 24th of September.

MR. LYTLE: That's right.

MR. CANFIELD: I don't know if the

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HL RENTALS

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decision and resolution is complete at this time.

MR. LYTTLE: I'm not sure. I know it was approved. I think a letter was put on your desk regarding that. I'm not sure about the resolution.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have no outstanding comments other than at work session it was discussed the reason for the fire bureau waiver was a lack of adequate water supply. I just want to confirm that there's not a well proposed, you're going to connect to a municipal water system, or is there a well?

MR. LYTTLE: There is actually a well proposed. Again, the water is from the City of Newburgh. They did not want us to tie into that because down the road they want us to abandon that.

MR. HINES: Is that well shown on this plan?

MR. LYTTLE: I see it actually has not been put on there.

MR. HINES: Any amended plans should

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HL RENTALS

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show that well also.

CHAIRMAN EWASUTYN: Additional
comments, Pat?

MR. HINES: That's all.

CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant?

MR. COCKS: Just to put the date of the
variance in the bulk table.

Other than that, just the required seal
and signature when the plans are signed.

CHAIRMAN EWASUTYN: Karen Arent, you're
satisfied?

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: Has the landscape
bond estimate been presented?

MS. ARENT: I can look it up.

MR. DONNELLY: It was at the time of
the original approval. I think it was \$18,000
and change.

CHAIRMAN EWASUTYN: Thank you, Michael.

MR. DONNELLY: Does that make it a
\$4,000 inspection fee or \$2,000?

MS. ARENT: What is it?

MR. DONNELLY: 18 and change.

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HL RENTALS

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MS. ARENT: \$2,000.

CHAIRMAN EWASUTYN: Comments from Board
Members?

MR. GALLI: No additional.

MR. BROWNE: None.

MR. MENNERICH: No questions.

MR. FOGARTY: No questions.

MR. WARD: No additional.

CHAIRMAN EWASUTYN: Mike, conditions
for approval on the --

MR. DONNELLY: Yes. Number one, we'll
need a sign-off letter from Bryant Cocks
addressing the issues in the September 23rd memo.
We'll need a sign-off letter from Pat Hines
indicating that a revised plan has been submitted
showing the well location to his satisfaction.
In the event that you want to delay payment of
the landscape fee until the building permit
pursuant to the recent resolution of the Town
Board, we've included authorization to do that.
There would be additional paperwork and a map
note that would need to be changed. We'll
incorporate the terms of the ZBA decision that we
know was voted upon on September 24th even though

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we have not seen the written copy. All of the earlier conditions except those that are modified here of the original site plan, lot line and ARB approval are to remain in effect in this resolution. There's a requirement that you merge several of the tax map parcels as part of the original approval, and that condition is carried forth as well. You'll need to apply for -- when you apply for your building permit it will have to be consistent with the ARB approval that was granted sometime back. There will be a requirement of a landscape security and inspection fee, a stormwater improvement security and inspection fee, and the usual condition that prohibits the construction of outdoor fixtures or amenities not shown on the site plan will be included in the resolution as well.

CHAIRMAN EWASUTYN: Any comments from our Board Members?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: None.

MR. FOGARTY: None.

MR. WARD: None.

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HL RENTALS

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CHAIRMAN EWASUTYN: Having heard the conditions for a final approval for HL Rentals site plan presented by Mike Donnelly, our Attorney, I'll move for a motion to grant that.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. 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. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Thank you.

MR. DONNELLY: John, I did neglect to mention, but it is in the resolution, that you discussed at work session that you see no environmental issues raised by the amendment and you've reaffirmed the negative declaration in the

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HL RENTALS

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resolution.

CHAIRMAN EWASUTYN: Thank you, Mike.

(Time noted: 7:19 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 20, 2009

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

----- X
In the Matter of

SHOPPES AT UNION SQUARE
(2007-05)

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

----- X

SITE PLAN
ARCHITECTURAL REVIEW BOARD

Date: October 1, 2009
Time: 8:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: BRIAN WASNER

----- X

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

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SHOPPES AT UNION SQUARE

MR. BROWNE: The next item of business we have is the site plan for the Shoppes at Union Square being represented by Goddard Development Partners, Adrian Goddard.

MR. WASNER: Good evening, ladies and gentlemen, Members of the Board. I'm Brian Wasner, Professional Engineer with Langan Engineering. I'm the site engineer for the project and I'm here tonight to present to you an amended site plan. It's different than the last plan we presented to you in late August when we came before the Board.

Since then we've gotten comments from the Board and from the Board's consultants. We've gone to a workshop session and we've been coordinating with the tenants, Shop Rite, Staples and Vitamin Shoppe, to incorporate those comments and improve the plan.

What we hope to present to you tonight is enough information so you could consider completing our SEQRA review and also consider granting preliminary site plan approval so we can get to some of the outside agencies that we know also need to review and have input on this plan.

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SHOPPES AT UNION SQUARE

Also tonight we have two architects with us, the two architects that represent Staples, Vitamin Shoppe and Shop Rite, and they would like to present to you the architectural information on the buildings for ARB review.

To that end I'd like to briefly review the site plan, and in particular some of the technical items that have changed since the last time you had seen the plan as well as some of the items that we intend to address based on our submission a couple weeks ago and some of the comments that came up as part of that technical review.

Since the last plan we've worked with the tenants and worked with our landscape architect to get some more interior landscaping into the parking lot areas to break up the asphalt. We added a fire retention landscape strip in the middle of the Shop Rite field. We were also able to thicken up some islands and create some more consistent plantings towards the perimeters of the field in the landscape islands to give it a more balanced feel and a more even landscape.

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SHOPPES AT UNION SQUARE

Along the main entrance drive we also created two traffic calming devices, speed tables if you will, one in front of the Shop Rite, one on the side of Staples. Although we had provided some details on the plan regarding those speed tables, Ken has provided some additional details that we're going to incorporate in the plan and we're going to adopt.

There were previously some spaces, parking spaces, allocated along here on the main drive aisle. There was some concern about their location and the circulation through the site and the backing up of the cars parked there. We were able to locate eight spaces in the rear as employee parking instead. We were able to also create an employee seating area for lunch breaks, smoke breaks, things like that. The end adjacent to the bus stop seems to be a better use and also addresses the circulation issue through the site. Overall we have 453 spaces. We're required to have 452. We're right on the cusp. Now we have enough but every space counts both for zoning compliance as well as tenant needs.

Behind Shop Rite, although we added the

1
2 eight spaces we have reduced the amount of
3 pavement that was back here. We cleaned up this
4 loading area a little bit so we could get some
5 more landscaping back here. We straightened out
6 some of the truck docks and made it more
7 efficient. That also allowed us to eliminate the
8 need for a retaining wall along the edge of our
9 property there so we can have a natural
10 vegetative slope.

11 We were able to realign the entry to
12 this 30-car parking lot over here on the side of
13 Staples. This provides a conventional four-way
14 intersection here. Although it's barely visible
15 on this plan, we have made an allotment for
16 future connection to the Regal parcels should
17 they ever be developed and a cross connection is
18 desired.

19 In conjunction with that, and Phil
20 Grealy, our traffic engineer, can get into this
21 in a little while, we did get feedback from New
22 York State DOT. They requested from our previous
23 plan that we shift our driveway about 10 feet
24 further south on 300. This current plan and the
25 plan that you guys have, the full set of

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SHOPPES AT UNION SQUARE

drawings, reflects that shift. It actually gives us a little more room to do our stormwater detention, allows us to do this T up intersection, and we were able to maintain all the parking and landscaping by narrowing up the sidewalk on the side of the Vitamin Shoppe over here.

 Lastly there was numerous very minor tweaks of the building footprints. Some of the areas around the buildings with the tenants themselves, working with Shop Rite and particularly working through their architecture, which you'll see in a little while, their building now reflects that there's an external atrium on the front which kind of serves as the main entryway and provides some architectural relief to the otherwise flat facade. They've also taken advantage of some of the height in that front area by adding an office or administrative support area in the form of a mezzanine that's tucked up, allows them more flexibility to operate their store.

 And in terms of the changes to the site, none of those changes that I've just

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SHOPPES AT UNION SQUARE

explained will affect either the type or the number of variances that we previously envisioned or requested a -- I can't think of the word -- reference to the Zoning Board for. All the same variances that we previously envisioned are still envisioned with this plan.

The full set of plans that we prepared include a grading and drainage, utility, landscape, lighting, construction details. I've worked with some of your consultants in reviewing those plans and I'd like to just point out a few technical issues that we will be addressing in a subsequent revision to the plans. One is the modification of the speed table. They're going to be located in the same spot, however there's a different detail, a different height of the speed table and dimension on the speed table that we'll be incorporating into those plans. We'll also be adding a construction entrance, or at least stone for protection for soil erosion measures for the construction entrance from Orr Avenue. We have a minor modification to make for the water coming in in terms of the size. We've got to work with the tenants and the architecture -- the

1 architects, excuse me, to provide some more
2 detail for this employee seating area and to get
3 some additional planting in front of this
4 building and narrow up this sidewalk a little
5 bit. We're also going to work with the architect
6 and Staples to figure out the best way to provide
7 landscaping in front of their building and also
8 keep the intended architectural look at the front
9 of their building in a sustainable way.
10

11 And lastly regarding drainage, I met
12 with Pat Hines specifically about the stream that
13 runs through our site. We discussed making a
14 modification to our proposed culvert here.
15 There's a 54-inch pipe right now underneath the
16 driveway. We were proposing an arch culvert to
17 go over that. I think what we're going to do is
18 remove that culvert and place a large box
19 culvert. It should alleviate any kind of
20 construction in the stream at this point here.

21 I also spoke to Pat about the drainage
22 detention area that's located underneath this
23 loading area in the rear of the store, and we
24 have figured out a way to get the drainage out on
25 the east side of this out parcel here, not in the

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SHOPPES AT UNION SQUARE

wetlands but it would drain and point in a downward -- downstream manner away from the neighboring property.

I think those are the main issues or the main topics that have come up that bear a little further scrutiny and revision, and I'd like to open it up to the Board or the consultants for any questions on those issues.

CHAIRMAN EWASUTYN: Thank you, Brian. Frank Galli, any comments at this point?

MR. GALLI: No. They addressed most of the issues. We had concerns about the neighbor's house with the drainage. We talked about that at the work session.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: The one that Frank mentioned was probably the biggest concern we had, and we spent a lot of time talking about that and understanding the significance of that particular issue and the resolution. From what we've discussed, what I've heard, I think that's a very positive direction to go in .

CHAIRMAN EWASUTYN: Ken Mennerich?

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SHOPPES AT UNION SQUARE

MR. MENNERICH: From what we heard from our consultants at the work session it looks like there's been a good working relationship between the applicant and our consultants and that things are moving along.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I have a concern about the three retention basins emptying into the stream. Pat, great explanation. I was concerned that it may be too much for that stream to handle the way it's set up. His explanation was satisfactory.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: At the work session they commented about the stream being cleaned up so it won't be backed up. The flow for the drainage is a good thing too.

CHAIRMAN EWASUTYN: We'll continue on. We'll turn to our consultants. I think everyone has confirmed what was discussed at the work session as far as drainage. I'll begin to talk about traffic somewhat.

MR. GREALY: Good evening, Mr. Chairman, Members of the Board. Philip Grealy,

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SHOPPES AT UNION SQUARE

John Collins Engineers, Traffic Consultant.

Just to bring you up to date on the items since our last meeting, Bryant has covered the internal site circulation items and mentioned the shift in the driveway on Route 300. In our discussions with New York State DOT they had asked us to make a slight shift here to better accommodate left turning vehicles into Home Depot across the street so that there would be no chance of interference with one another. We will also have left turns into our driveway on Route 300.

The other things that have occurred, the signal upgrades at the intersection of Orr Avenue and Route 300, which are going to be done as part of this project, have been approved by DOT. They will also include interconnect equipment to allow this signal and the signal at the Adam's and the Lowe's driveway to communicate, and that's part of their long-term plan for the corridor, to have all the signals interconnected as part of the system. So both this signal at Orr Avenue and the equipment will be provided to allow these two to be

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2 interconnected, and then the DOT would have the
3 ability to connect the rest of the signals along
4 the corridor. We're continuing through the
5 approval process with DOT, which will not finish
6 until we're done with the Town of course.

7 They had also reviewed the drainage and
8 had approved the drainage study Bryant's office
9 had prepared.

10 We had received some comments from your
11 traffic consultant which we have no problem with.

12 I think Bryant will address the
13 internal, the changes to the speed tables which
14 will be incorporated.

15 So I think we're moving along in the
16 right direction on -- you know, towards our
17 approvals with the DOT. I'll be happy answer any
18 questions.

19 CHAIRMAN EWASUTYN: Frank Galli?

20 MR. GALLI: There was a question raised
21 at the workshop meeting about trucks heading
22 south on 300 and making that turn on Orr Avenue.
23 Large trucks. Did they do anything with that
24 intersection?

25 MR. GREALY: Well we're opening up --

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SHOPPES AT UNION SQUARE

as part of the plan we're going to be widening in front of the Hess station there and improving the radius, and we'll have -- actually right now it's like a lane-and-a-half approaching Route 300. There will be two full lanes at the intersection. So that's part of it. And our driveway on 300 would also have right turns out of that driveway. So it would be right in, right out and left turns in. DOT did not want left turns exiting here since we have access to the signal.

MR. GALLI: We were more concerned about the trucks that deliver to Shop Rite in the back.

MR. GREALY: Absolutely. As part of the overall intersection upgrade, it's not just the signal, it's the additional widening which you can kind of see on this plan, all within the right-of-way there.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Cliff, does that answer your question?

MR. BROWNE: Just to follow up with what Frank mentioned, that right turn from your analysis, that radius that you're presenting now,

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SHOPPES AT UNION SQUARE

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is that adequate for the larger trucks that are using that truck depot that's back there now as well as all the Shop Rite vehicles?

MR. GREALY: If I'm not mistaken, I think the design DOT required us to do on that radius was for a WB-62, which would be a 53-foot trailer, which I think would pretty much accommodate the vehicles from Shop Rite. That radius would actually accommodate more than that size vehicle but that's what we were using.

MR. BROWNE: It's not a right angle, it's a --

MR. WASNER: Skewed.

MR. GREALY: Yes.

MR. BROWNE: When I travel out there I see we have a lot of bad drivers or that's really a tight turn. So you're satisfied with that?

MR. GREALY: Yes.

MR. BROWNE: Ken, you agree with that; right?

MR. WERSTED: I didn't look at that specifically but I'll have to double check it and verify it.

CHAIRMAN EWASUTYN: Ken Mennerich?

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SHOPPES AT UNION SQUARE

MR. MENNERICH: Nothing.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: We were talking about where Cosimo's is, that corner, if you could even cut into that so it's not as --

MR. GREALY: You can't see it from there but this radius is also being modified.

MR. WARD: In?

MR. GREALY: Yes.

MR. WARD: Take it off because you -- trucks can go out wide no matter what it is but if you cut that off they have less of a chance to do it.

MR. GREALY: That's correct. Both corners are being adjusted there.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Comments from our consultants at this point. Jerry Canfield?

MR. CANFIELD: We talked about the driving lanes. The accessibility meets or exceeds the fire code requirements as far as the width and the lanes go.

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SHOPPES AT UNION SQUARE

The applicant's representative has identified the six variances that are needed, which we have discussed, in addition to the signage.

The water line, a question for Brian, a request that it be increased from a six-inch to an eight-inch on the 300 side at that point. Is that agreeable?

MR. WASNER: Yes.

MR. CANFIELD: Thank you. I also ask that the engineering department and water department review as part of the technical review all of the water, and I offer to also assist to coordinate that with the engineer's office in conjunction with Pat and the water department district superintendent.

A technical item on the soil erosion control plan. We're requesting a tracking pad on the Orr Avenue entrance. We had talked about it at the work session. Including the soil erosion control inspection fees.

Demolition permits will be required for all the structures to be removed.

At this time I believe the site is

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SHOPPES AT UNION SQUARE

going to be approved or is in the direction of being approved as one. I guess -- I don't know if it's your plans to construct everything at once whereas eventually were you looking for a certificate of occupancy. In the past when we have multiple buildings on the site and it's approved as one, there can't be any certificates of occupancy granted until all of the improvements and buildings are complete.

I don't know, John, if we want to discuss that at this time, if that is the way that we're going to proceed, or will there be a possibility of changes down the road, an amended or a phased plan.

CHAIRMAN EWASUTYN: I think this would be, if not now, a discussion that Mike Donnelly could have with Larry Wolinski to --

MR. DONNELLY: We should finalize it by the time of final approval. I don't know that we need to pin it down now. The suggestion is a good one for you to think about.

MR. WASNER: Okay.

MR. CANFIELD: Thank you.

CHAIRMAN EWASUTYN: Pat Hines, Drainage

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SHOPPES AT UNION SQUARE

Consultant?

MR. HINES: The DEC permits will need to be revised reflecting the changes to the plans.

City of Newburgh flow acceptance letter based on the revised square footage will need to be submitted.

We're looking for confirmation for the jurisdictional determination on the wetlands.

Just a technical change on the sprinkler system for the Shop Rite building to comply with the Town's requirements.

We have reviewed the stormwater management plan. We've met with the applicant's representatives in the field. We suggested the modifications which were discussed by the applicant and that I identified during the work session. We believe that will improve the drainage conditions on that site and address some potential drainage concerns the neighbors have had in the past.

We think the changes we suggested and the applicants have concurred with will address those concerns.

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SHOPPES AT UNION SQUARE

We looked at the watershed as a whole. There's over a thousand acres tributary to the site upgradient, and we believe that that change to that culvert will help alleviate the flooding conditions previously identified.

We have some additional technical comments that were e-mailed, based on a review of the stormwater management plan, to the applicant's representative, and we can follow up with a copy to the Board but they have concurred that they're going to work and address those. We believe with the changes we've suggested and they concurred, that the drainage issues can be resolved on the site.

CHAIRMAN EWASUTYN: Thank you.

Bryant Cocks, Planning Consultant?

MR. COCKS: Just for the record, the variances were mentioned. Those variances are going to be both front yard setbacks for the Cosimo's lot including the side yard setback and maximum lot surface coverage. Then for the Shop Rite portion there's going to be two side yard setbacks and also the Cook property.

Then for signage. For the total amount

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SHOPPES AT UNION SQUARE

of signage necessary and also the interior identification signs for Shop Rite, the Planning Board is going to have to discuss the need for an additional public hearing for the site.

On the lighting plan, right along the low side, it just shows there's not going to be any spillover. I wanted to make sure there wasn't going to be a lot of lights on this side right up to the one on that side, just over in like that area. Just take a look and make sure it's not going to overdue it.

Other than that, I think all the changes that were discussed have been addressed.

CHAIRMAN EWASUTYN: Thank you.

Karen Arent, Landscape Architect?

MS. ARENT: Many of my comments were discussed. One of the things to look at when you're reviewing the design for the Shop Rite picnic area is to show wherever outdoor display areas are going to be to make sure that the sidewalk will still remain walkable. That was a concern for the Board, that when there's big displays outside the supermarket there's no room left on the sidewalk to walk. So if you could

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define those and label those on the drawings.

Along with creating a nice design in that area it will be graded. We spoke about the block wall, and the color of the wall should be as naturalistic as possible to blend in with the wooded area.

The landscape plan, I spoke to the landscape architect and he discussed various choices. That's all being taken care of. So most of my comments are being addressed.

CHAIRMAN EWASUTYN: Thank you.

Ken Wersted, Traffic Consultant?

MR. WERSTED: We reviewed the project and also a traffic study and concurred with the resulting levels of service and the conclusions of it.

We had noted the details on the speed tables. There's some striping changes from the detail that's in the plans to, you know, what should be put out there. I discussed that with Phil Grealy as well.

The back of the Shop Rite shows I think about eight loading docks. Could you describe a little bit about how the trucks will kind of

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SHOPPES AT UNION SQUARE

serve that area? Will there be a line of eight trucks sitting there? How's that going to basically operate on a day-to-day basis?

MR. WASNER: The reason that there's eight docks is so that the trucks can come in during the day and offload, the trailers can be left and the cabs can leave. Particularly some of the larger deliveries the trailer will be dropped off in the late afternoon, they stock the stores and typically reload at night, and then the empty trailer can be picked up in the morning. So the number of loading docks is not intended to be the number of trucks there all the time, it's just to provide an option and availability for the trucks to have room and not clutter up the area.

CHAIRMAN EWASUTYN: Bryant had mentioned in his review, and it's up to the Planning Board, I'll ask for a roll call as to whether the Planning Board wants to hold a public hearing.

Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff Browne?

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SHOPPES AT UNION SQUARE

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Yes.

CHAIRMAN EWASUTYN: And myself no.

Then the Planning Board waived the opportunity for a public hearing.

Final comments from Board Members on the site plan?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I like the overall plan.

I do have a strong concern, though, with the displays and what not on these sidewalks that Karen mentioned. I think that needs to be looked at and addressed somehow so we don't have a situation where people have to walk out of the drive areas or the parking areas to get around the clutter that's typically out there in some of these shopping areas.

CHAIRMAN EWASUTYN: Ken Mennerich?

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SHOPPES AT UNION SQUARE

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: None.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No.

CHAIRMAN EWASUTYN: Mike Donnelly, I think the first action is to have the applicant -- it's either one, I'm not sure. Either rescind the conditional approval that they had originally received or is it to reaffirm the negative declaration since they have their environmental issues? Which should come first?

MR. DONNELLY: I don't think it much matters. They both need to be done but I think the applicant has to acknowledge that by amending the plan and moving forward to a preliminary, that they're giving up the right to pursue what had earlier been approved. I don't think that's any surprise. Then you do need to reaffirm your negative declaration. Based upon your consultants' reports and your discussion at the work session there do not appear to be any environmental issues raised by these amendments that weren't covered in the earlier SEQRA

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SHOPPES AT UNION SQUARE

proceedings which culminated in a negative declaration.

CHAIRMAN EWASUTYN: Procedurally I'd like to ask the applicant for the record if they are willing to rescind the final approval that they had received originally for the Shoppes at Union Square?

MR. GODDARD: Yes.

CHAIRMAN EWASUTYN: For the record your name is?

MR. GODDARD: Adrian Goddard.

CHAIRMAN EWASUTYN: Let the record show Mr. Goddard rescinded his original conditional final approval.

I'll move for a motion from the Board to reaffirm our negative declaration for the current site plan for the Shoppes at Union Square with the understanding that there has been no new environmental issues raised.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

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(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. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

At this point I'd like to turn the meeting over to Mike Donnelly, Planning Board Attorney, to discuss with the Board conditions for preliminary approval.

MR. DONNELLY: As the Chairman mentioned, this is an amended preliminary approval resolution. Our code permits that when, due to complexities of the project and the need to receive input from other permitting agencies, we can grant a preliminary approval enabling the applicant to move forward to those agencies. In addition to making that finding the Planning Board, I think, is prepared, based upon the lighting plan that it looked at at the work

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session, to also include a finding waiving the pole height requirements of the design guidelines of the code. If the poles were lowered to the mandated height Karen Arent has described, the parking lot would look like a lighting pole forest because there would be too many poles for the scale of the size of that parking lot. The current plan presents a correct balance of the amount of light needed for the size of the parking lot. Moreover, the poles as presented would match those of the adjoining parcel and would not provide that incongruence.

After that the resolution will recite a number of conditions. First will be the requirement that all the technical memos, both those that have been authored already and those that might come out of future amendments to the plans, are addressed before final approval.

There are several issues that need resolution before final site plan approval can be granted. Those are as follows: You'll need to finalize the street crossing designs based upon the DEC permits, and I know that's underway. You'll also need to finalize the stormwater

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conveyance storage and treatment plan which will include the relocation of existing conveyance routes and culvert size modifications. We will need to see a satisfactory landscaping plan. You have Karen's comments in that regard. We will also need, as part of the ARB approval when that is granted, a comprehensive sign plan, and that may best be handled after you receive the variances for the signs that you need. Lastly, and it was mentioned earlier I think by Cliff Browne, in some projects like this we find that the outdoor display of merchandise, if not properly controlled, can impede safety and pedestrian traffic. We'd like you to come up with a proposal for how you propose to handle that. In the past what the Planning Board has looked for is a demarcation of the areas where the displays can take place and a prohibition on the outdoor sale of merchandise as distinct from the display, and some limits on the type of merchandise and the season within which it can be sold so we don't have a year-round outdoor bizarre kind of situation. The Planning Board will look at that plan and perhaps impose some

1
2 conditions on it, but we'd like to see some
3 proposal as part of your final approval.

4 Other agencies need to weigh in on
5 this. Among those are the Town of Newburgh
6 engineer for sewer main extension, the stormwater
7 management plan and the potable water
8 distribution plan. The Town of Newburgh water
9 department will have to look at the sewer and
10 water connections, the water main extension, the
11 hydrant locations, the fire system as well as the
12 potable water distribution plans. The Town of
13 Newburgh Architectural Review Board, which is
14 this Board, will have to give ARB approval. The
15 City of Newburgh will have to issue a revised
16 sewer flow acceptance approval letter and
17 approval of the stormwater discharge plan. The
18 Orange County Health Department will have to
19 grant water main extension approval. The
20 Department of Environmental Conservation will
21 have to issue a SPDES permit and stream crossing
22 permit. The DOT will have to approve the new
23 concept design plans for their roadway. It
24 appears that you may need a Section 104 wetlands
25 permit from the U.S. Army Corp of Engineers. If

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that's not true, the delineation will tell us that or the jurisdictional letter will tell us that. It appears you may need that permit. Lastly, the Zoning Board of Appeals will have to revise and issue certain variances in addition to those it issued already, and they were listed earlier by Bryant. They will be recited in the resolution.

We ask you in the resolution to copy the Planning Board on your ongoing correspondence with those agencies. There is the requirement that will be incorporated into the final approval that you merge the various lots that were represented to be merged to accomplish the site plan. You will of course, because you need the Zoning Board of Appeals variances, be entitled to preliminary approval but not final approval until those variances are obtained.

We talk, as we did in the earlier resolution, about the importance of justification for the comprehensive sign plan which we'll need to see.

You spoke of the potential future roadway interconnection to adjoining properties.

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We recite that you had made that offer and you reflect your understanding and that of the Board that it would be, if it was ever implemented by the adjoining property owners at no cost to you. You provide the opportunity and they'll pay for the improvements.

I don't know where we are going to go with ARB approval. If it is granted this evening the condition will be that all building permits issued or applications for building permits be consistent with the architectural materials reviewed and approved. If it is not issued this evening we will simply reserve that and reflect that opportunity in the resolution.

We have standard conditions that will be incorporated into the final regarding landscaping maintenance, parking lot maintenance, vehicle and traffic law enforcement opportunities for the local police onto the private lands, and we reflect the needed financial securities that will be required for final approval.

Lastly, so it's understood, at the earlier stage will we include a condition in the final approval which states in essence that you

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can't construct any outdoor fixtures or amenities on the site that are not shown and approved on the site plan. That includes mechanicals and other devices. If you need those, show them on the plans now.

I think that outlines the conditions.

CHAIRMAN EWASUTYN: Any additions from our consultants. Jerry Canfield?

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: No.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Nothing further.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: No.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: No.

CHAIRMAN EWASUTYN: Comments or questions from Board Members?

MR. GALLI: I just have one question I forgot to ask at workshop. If the sewer flow is less than it was before do they still need approval from the City of Newburgh?

MR. HINES: Yes, because the City of

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Newburgh is tracking those requests. If it is reduced we want to make sure that's subtracted.

MR. DONNELLY: It comes out of the Town's allocation.

MR. WOLINSKI: That's a bookkeeping exercise.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm good, thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comment.

MR. DONNELLY: Lastly, Bryant mentioned in his memo that the Orange County Planning Department did review this initially. They had issued a series of comments, all of which were incorporated into the final plans in October of 2008. Bryant had suggested, given the changes to the plans, that this should be referred to the Orange County Planning Department again for the report and recommendation. I had included that in the resolution and I forgot to mention it.

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CHAIRMAN EWASUTYN: So you'll make it a point of --

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Get plans to Bryant Cocks and Bryant Cocks will circulate them.

Having heard the conditions of approval for the Shoppes at Union Square for an amended preliminary approval presented by Attorney Mike Donnelly, I'll move for that motion.

MR. WARD: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

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Brian, would you begin now to present to us your ARB, and you could select which building you want to start with.

MR. WASNER: Sure. Actually I'm going to introduce Joseph Minuta of Minuta Architecture to start with the Staples building and the Vitamin Shoppe building adjacent to Cosimo's.

MR. MINUTA: Good evening, Mr. Chairman, gentlemen on the Board, consultants. Joseph Minuta with Minuta Architecture.

I'm pleased to present to you this evening our architectural review piece which you all have copies of in color. I will start with the Vitamin Shoppe building and how that's connected to the Cosimo's, the character and features that we brought through the site. As we go through this I would like you to think of this as a glass blower pulling a thread of glass through the site for the type of motif which actually comes out to which they'll then pick up for the Shop Rite piece.

I have several samples of material which you can review. I have some scale drawings which are also in your package.

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I'll start with the Cosimo's building. We took a look at the building, and it's purely Tuscan style. Those of us who are familiar with this, it used to be a residence at one point. We have a masonry structure that was then created and converted into a commercial structure. As you will see, there's a repetition of some of those elements that are brought through the site for the building, and we really converted this into more of a commercial building as you'll see through the Vitamin Shoppe area. We created a couple of very nice features and entrances here.

We have an open entrance. It comes in at a 45, we have the faux stone which we matched up to the existing faux stone as well as the efface colors and some of the window styles. The windows on the exterior will be white. We also introduced some brackets to bring some of that warmth, and a couple of turrets at each end basically defining and demarking the locations.

From that portion I will bring you over to Staples. Just for your edification, we have that addition 3,500 square feet existing of 1,300 square feet for a retail space, and the remainder

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of that space would be allocated to Vitamin Shoppe.

For the Staples piece of that, obviously it's a grander scale building, 18,000 square feet. We continued on with some of those elements, and rather than creating the big box in the big box world we have today we tried to break that box down. In doing so we created a front entrance vestibule purely of a glazed unit. The Staples sign, which is a requisite requirement from the tenant as well as continuing those brackets, some of the colors, the chocolate browns and the roof we introduced as a commercial scale, a standing seam metal roof.

Landscaping has been addressed to some extent from Karen's comments as well as Bryant's. The intent of this is it's more of a stark and staunchy architecture to continue that theme of the Tuscan style through here. In doing so we incorporated some of these vertical units which becomes basically the landscaping. That piece of it we're looking for skyrocket Junipers, plantings and how they're planted and maintained. Again, that will be all worked out. We broke

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down the scale of the sides of the building with various components, flat arches for our window areas.

As far as the materials are concerned, I can walk you through the board. Essentially we have the standing seam metal roof which we have samples of here in its true color. It's a chocolate brown. We've also matched other colors to that to give that rustic feel. Again, the stone is a river rock which we matched up. That will be continued through as a water table. We have another brown for the east water table and also the soffit piece up top.

That's pretty much the extent of it. The line drawings are there. The heights are within your regulations. I would open this up to any questions or comments that you may have at this time.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No additional comments.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I've been on the road quite a bit and I was relieved to see what you're presenting versus what I presumed the Staples

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would look like and whatever. I'm pleased with what I'm seeing.

MR. MINUTA: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I find the architecture very interesting, too.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: When I looked at this, you're right, someone mentioned a typical Staples and some of these other stores. I've seen other Vitamin Shoppes and things like that. This is attractive. It's very nice.

MR. MINUTA: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I've seen other Staples the way you're doing it and it looks great. I like the flow going from Cosimo's up. Thank you.

MR. MINUTA: Thank you all. I would like to introduce Susan Sassoon from Rosenbaum Design Group so she may represent the Shop Rite piece of this.

MS. SASSOON: Hi. I'm Susan Sassoon with Rosenbaum Design Group for the Shop Rite store. What we tried to do is pick up a lot of

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the same colors and materials that we're using in Joe's buildings. We've got the same base background color, the beige. These are the actual color samples here. We're using -- most of the building will be this color and then the towers on either side will be a little bit lighter, a cream color.

Our mechanical equipment is also going to be clad in the same color so it will kind of blend in.

The green stripe we're going to use as just an accent for Shop Rite to go all around the building to give it some interest.

We're picking up the stone on the columns along the front canopy. It's going to be the same -- also the same stone as what they've got at the Cosimo's.

I also wanted to address one of the concerns that you had brought up for the outside sales in the front of the building. We would limit any outside sales to the first four feet against the wall right here in between the exit vestibule and the entrance so that it wouldn't get in the way of -- we would still have eight

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feet of sidewalk for circulation.

MR. DONNELLY: It would be helpful, at least on the site plan, that that be shown and appropriate notes added.

MR. WASNER: We'll add that to the site plan.

MS. SASSOON: Any questions?

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: I see the mechanicals on the roof you have. What are they surrounded with?

MS. SASSOON: It's a metal panel. This is the detail of it.

MR. GALLI: They're all surrounded with metal panels?

MS. SASSOON: Right. That will be the same color of the building. Also it looks kind of big in elevation but really it's much higher than the -- when you're down on the ground looking up at it, I think the sight line is going to hide most of it anyway.

MR. GALLI: That's the only question I have.

CHAIRMAN EWASUTYN: Cliff Browne?

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MR. BROWNE: Yes. On the accent, the greens and whatever, do you have any specs on how many shades it will fade over how much time? Most materials will fade over time. In three years it will look like this and --

MS. SASSOON: When we feel it starts, you know, looking shabby we would repaint it and maintain it.

MR. BROWNE: Is that one shade, seven shades, twenty shades? How many shades different before it looks shabby to you?

MS. SASSOON: I don't know. We really haven't had a problem with our other stores. We do use this color on our other stores.

MR. BROWNE: What's the material?

MS. SASSOON: It's paint. It's Benjamin Moore.

MR. BROWNE: Benjamin Moore paint. That does fade.

MS. SASSOON: Yeah.

MR. BROWNE: Next time you come through can you give us specs on what that would look like in three years versus now?

MS. SASSOON: Like in photographs of

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other stores or something?

MR. BROWNE: No. Like actual specs.

Benjamin Moore does have a spec on their faded --

MS. SASSOON: I'll research that.

MR. BROWNE: It does change shade.

They warrantee for those kinds of things. It's quite obvious in some areas and in some areas it's not so bad. The beiges are not noticeable. Greens, reds, they're very noticeable.

MS. SASSOON: Okay. I'll look into that.

MR. GODDARD: We would also stipulate that the shade you see will get maintained at whatever intervals we're required to do that.

MS. SASSOON: Okay.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think you said that the surface of the building was going to be a stucco.

MS. SASSOON: It's actually made of precast concrete. The concrete is just going to be painted -- it's going to be painted green and it's going to be -- wherever possible we're going to get aggregate that will be the same color as

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the efface. These towers in the corners are going to be efface.

MR. MENNERICH: It's more of a textured surface than a stucco surface?

MS. SASSOON: Correct. For most of the building. It's just in some areas, like the towers, we will have efface.

MR. MENNERICH: Thank you. That's it.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I have no questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I like the idea of the prefabbed concrete, the textured panels. It breaks it up and it adds accent to it and dresses it. Thank you.

CHAIRMAN EWASUTYN: Okay. We'll take comments from our consultants. Jerry Canfield?

MR. CANFIELD: Just one question. The screening for the mechanicals, that's ten feet? They're ten feet in height?

MS. SASSOON: I believe so. It's -- yes. Yes, they are ten feet high. We prepared really for the worst. Right now it's a preliminary design. We don't really know what

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the mechanical units are going to be and where
but we took the worst case scenario.

MR. CANFIELD: It's more or less a
generic number at this point?

MS. SASSOON: Right.

CHAIRMAN EWASUTYN: Anything else,
Jerry?

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: No comments on the
architecture. My wife helps me with my shirts
and ties.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: This isn't so much for the
building but for the retaining wall that's going
to go through the stream, you were talking about
maybe matching the color of the buildings. We
were actually talking about trying to make that
more of a natural color. I was just waiting for
the whole visual thing. I didn't know what you
guys were talking about. I know there was
discussion back and forth.

MR. WASNER: We originally thought it
would be a good idea to try to match it up with

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the building. After talking with Karen and seeing your comments, Bryant, I think we'll go back to the earth tone we originally envisioned to make it as least visible and obtrusive as possible.

MR. COCKS: One other thing that I caught. The identification sign for Shop Rite had a different color on it than the building. I didn't know if that was supposed to be like that. They said it was spec'd to match but it was OC-10 and OC-12.

MS. SASSOON: The difference between OC-10 and OC-12 is very slight. This is the OC-10, this is the OC-12. Really we just wanted to go a little bit lighter for the towers. The OC-12, this one, is what the rest of the building --

MR. COCKS: I just wanted to make sure it wasn't a typo and it was going to be some completely different color.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: I spoke with Joe Minuta in reference to the roofs on the Vitamin Shoppe building. They're going to be similar to the

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roofs on Route 300.

And also on the mechanical units, he has a 3D modeling program so he looked on his program to see if you'll see the back side of those roofs or any of the mechanical units. He said only from the roof of Shop Rite will you see these. He's going to put a note on the drawings saying that.

Also the question I have for you is do you have any idea where the equipment will be mounted? Most likely it's going to be away from the side of the building, not right on it.

MS. SASSOON: In speaking preliminarily with our mechanical engineer, he thought it probably would be like in the center and towards the front. So from the sides you won't have any problem. In the front -- I think we're going to be low enough down in the front that we won't see it, but we're going to run sight lines once we have the actual design and placement of the units.

MS. ARENT: Thank you. That's all.

CHAIRMAN EWASUTYN: Ken Wersted,
Traffic Consultant?

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MR. WERSTED: No comments.

MR. GALLI: John, I just have one more comment. I think the reason the Board is concerned about the architectural and the fading I think is if you look around at the Town of Newburgh and other Shop Rites, they don't look like they're well maintained over the years. They fade, they change colors and no one is maintaining them. I think that's a concern we do have in the Town. I don't know about the new ones, like the outskirts, like Montgomery. The ones in the Town don't look that great.

MS. SASSOON: We could either address it with -- we'll get you the specs on how quickly it fades, and we can, you know, put that into the resolution as to how --

MR. BROWNE: The materials that they use other than paint, they hold up for a long time quite well. So, you know, you have these different scenarios and you don't want a nice looking place to look like it's thirty years old in three years.

MS. SASSOON: Shop Rite doesn't want that either. They don't want that for their

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image.

MR. BROWNE: That's what they have for their image right now unfortunately. That's one of the concerns when I see Shop Rite and -- to me it's not a -- well, let's leave it there.

MR. GODDARD: We can certainly stipulate that it's maintained, you know, to the initial standing as far as the colors are concerned.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: In connection with the roof and the screening of the mechanicals, another grocery store that's in the area, once the store was up we found out there was a lot of ventilation type equipment that extended above the roof and looked quite unsightly. The air conditioning units were screened but there were a lot of other protrusions from the roof that weren't. What is your sense on this Shop Rite store, how that will be handled?

MS. SASSOON: The only other equipment I think you would be concerned about would be the refrigeration equipment, and that we can screen in the same manner as with screening the air

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conditioning equipment. I don't think you have an objection to fences.

MR. MENNERICH: It was mainly the air handling equipment was not screened. I think the fans. That will be screened?

MS. SASSOON: That would be screened as well with the same material.

MR. MENNERICH: Thanks.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No comment.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Is the Board in favor of granting ARB approval this evening, and, if so, what buildings or all buildings? I'll raise that to the Board. Frank Galli?

MR. GALLI: I don't know if it makes a difference to them if they get it now or later on. As long as nothing changes I don't have a problem with doing it now or later. Like I said, it's just a process. As long as nothing changes and it stays the same or if they want to just hold it open in case there's any tweaks between now and final. As long as it doesn't change

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SHOPPES AT UNION SQUARE

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between now and final I don't have a problem.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: My only concern is what I heard is she doesn't have the details of what she's screening and what not going with the assumption ten feet will handle it all. I kind of hate to put us in a position saying how can we approve it. If you approve the ten feet and something happens, I have no idea what can happen, and they come back and say now we have a situation. I don't know if we can approve it with the condition that -- I don't know. I guess we approve it and come back and say we'll look at it later.

CHAIRMAN EWASUTYN: I guess what we can do too is make it a -- as we do with a lot of things, we can make a conditional ARB approval subject to Karen receiving the lines of sight for the mechanicals, and we can also make part of that condition that, and you know better the verbiage than I do, that the specs or the details -- who is the paint company?

MS. SASSOON: Benjamin Moore.

MR. BROWNE: Adrian has already agreed,

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we can put a comment in there to modify the
comment.

MR. DONNELLY: We can make it subject
to Karen seeing an amended plan and add a map
note to that effect with some teeth in it.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: With that suggestion,
that's fine with me.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I agree with that
condition.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I feel everybody is on the
same page going with it. I have no problem.

MS. ARENT: We also have to see the
signage chart.

MR. GALLI: You're not doing signage.

CHAIRMAN EWASUTYN: The signage chart
do you want to make part of this motion or do you
want to make --

MR. GALLI: No, I don't.

CHAIRMAN EWASUTYN: I think in the
past, like Frank is saying, we'll hold off on
signage until a later date. Mike discussed it

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and we discussed it.

MS. ARENT: Will it be part of the architectural drawings or separate?

CHAIRMAN EWASUTYN: Separate.

MS. ARENT: Usually we have it as part of the drawings.

MR. GALLI: They have to go to Zoning yet.

MR. CANFIELD: Do it separately.

MR. GALLI: Do it separate.

MS. ARENT: But usually the building department likes something in the package of drawings so that -- the approved drawings so they can review it if there's questions about signage later. There's also like a tenant moving in. When it's part of the architectural drawing set --

MR. GALLI: What I'm saying is we approved ARB before without doing signage and they've come back for signage.

MR. DONNELLY: Since they're coming back anyway, what if we said the cohesive sign plan will be incorporated into an amended ARB at the time of final site plan approval, that way it

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will still have the character of ARB but we don't hold up the applicant tonight on moving forward with finalizing the architectural plans.

CHAIRMAN EWASUTYN: Mike, John Ward ended by saying that the plan set and ARB before us were in harmony on what is being presented. It might be a good time now for you to summarize this in the form of a resolution and also bring in the signage --

MR. DONNELLY: Okay.

CHAIRMAN EWASUTYN: -- so we can act on all three buildings.

MR. DONNELLY: I will include the usual ARB findings condition that we have in the resolution. I'll also include the usual conditions that essentially require the building permit application construction plans be consistent with the ARB approval, that Karen Arent has the opportunity to examine them to ensure that they are in compliance. But then I will add below that two additional conditions, that the ARB approval -- maybe three -- is subject to Karen's sign off on viewing the sight lines to ensure that the screening proposed will

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adequately screen those mechanicals from view at pedestrian level. Also she will sign off on a change to the ARB that includes a note that memorializes the commitment we've heard this evening to maintain the appearance of the Shop Rite building to a stated specification, however that is devised. And thirdly we'll include the requirement within that the cohesive sign plan will be incorporated into an amended ARB at the time of final site plan approval.

CHAIRMAN EWASUTYN: Karen, would you like to add anything to that?

MS. ARENT: That's fine.

CHAIRMAN EWASUTYN: Any additions or comments from Board Members?

MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Then I'll move for a motion to grant ARB approval to the Shoppes at Union Square for all three buildings, that being the Staples building, the Shop Rite building, and the addition to Cosimo's, the Vitamin Shoppe, and the small section of retail space.

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SHOPPES AT UNION SQUARE

MR. WARD: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward. 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. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

From what I understand, you have an application before the Zoning Board of Appeals.

MR. WOLINSKI: That's correct.

CHAIRMAN EWASUTYN: We had discussed at our work session that Pat Hines and Ken Wersted will provide a summary of the discussion and the mitigating measures for the issues of drainage and traffic. We'll submit that to the Zoning Board of Appeals so they can have that as

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supporting documentation --

MR. WOLINSKI: Thank you.

CHAIRMAN EWASUTYN: -- as to what was discussed and reviewed.

Mike Donnelly will prepare a letter in reference to that to the ZBA, and our consultants will then prepare a summary.

Karen, if there's something you think you may want to add to that, Bryant Cocks, I'd appreciate everyone participating so the ZBA will have a summary of record of what was discussed and the mitigation measures that were applied.

MR. DONNELLY: Is it scheduled yet?

MR. WOLINSKI: It's November. November 24th.

MR. DONNELLY: There's no rush but get them to me and I'll send them.

MR. WASNER: Thank you very much.

MR. MINUTA: Thank you very much.

(Time noted: 8:20 p.m.)

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

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

DATED: October 20, 2009

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

----- X

In the Matter of

EXETER BUILDING CORP.
(2002-26)

Extension of Final Approval

----- X

BOARD BUSINESS

Date: October 1, 2009
Time: 8:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: RICK GOLDEN

----- X

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

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EXETER BUILDING CORP.

MR. BROWNE: That concludes our regular scheduled items. Our next item of business is under Board Business, and that's a discussion about Exeter and a request for extension of final approval. The current approval expires December 20, 2009. The applicant is requesting a one-year extension that will run until December 20, 2010.

MR. GOLDEN: Rick Golden. Good evening, Mr. Chairman, Members of the Board, Consultants. My name is Richard Golden, Burke, Miele & Golden, representing the applicant currently known as Exeter with respect to the Madison Green property.

This project received conditional final approval on December 20, 2007. Arguably that site plan approval expires in two years, December 20, 2009, unless you get a building permit. Exeter did obtain a building permit with respect to taking down two towers, and also was granted, after approval by this Board, a clearing and grading permit in connection with the project. In order not to simply have an argument later on as to whether or not that was sufficient for purposes of extending the site plan approval

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without a requirement for an extension, we are here to ask for an extension of that site plan in accordance with Section 185-58 E of the Town Code.

In accordance with that provision, in order to get an extension we need to show two things to you. One, that there has not been a substantial change in the condition of the site or its environs. And two, there has not been a substantial change in the zoning requirements. With respect to the first requirement, I think it's very clear that there has not been a change -- a substantial change in the condition of the site or the environs except for that work that has been done in accordance with your approved resolution on the plan that was carried out in connection with the building permit for the taking down of the towers which was indirectly part of your conditions in your resolution of approval because it incorporated all of the conditions that were required by the Town with respect to the extensions of the sewer and water districts, and it was one of those conditions that required taking down the two water towers.

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2 It's not part of the requirements or part of the
3 project, the site or other development aspects of
4 it. The Town did require that and so we went
5 ahead and complied with that condition. We also
6 had the clearing and grading permit that did
7 various clearing and grading work in connection
8 with the approval. So I think that there hasn't
9 been any substantial change in the condition of
10 the site or its environs.

11 With respect to substantial change in
12 the zoning requirements, after this Board
13 approved it, after much litigation, ably
14 defended, the court said that Exeter did have
15 statutory vesting to the old zoning into January
16 of 2009. We believe that in fact after that time
17 we are entitled to common-law vesting because of
18 the work done during that time on and prior to
19 January -- in and prior to January 2009. The
20 Town and the building inspector disagree. We are
21 now before the ZBA in connection with that
22 determination as to whether or not we have
23 achieved common-law vesting. If we have achieved
24 common-law vesting then there has been no
25 substantial change in the zoning requirements,

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2 and therefore I believe that you would be able to
3 go ahead and extend our site plan approval. If
4 the ZBA determines that we are not entitled to
5 common-law vesting, then I must concede that in
6 fact there would have been a substantial change
7 in the zoning requirements and an extension of
8 the conditional final site plan approval in your
9 code would not be appropriate if we have not
10 otherwise complied with that by receiving the
11 prior building permit and clearing and grading
12 permit.

13 So what I'm asking for is the
14 extension, twelve-month extension that would
15 extend the conditional final site plan approval
16 to January -- December 20, 2010.

17 MR. DONNELLY: If I can just pick up on
18 the last part of what Rick has told you, and that
19 is whether or not it's appropriate for you to
20 grant the extension is going to depend in large
21 measure on how the Zoning Board rules. I do
22 agree that in the event that they declare that
23 the vested rights exist, it would be appropriate
24 for you to grant the extension for the additional
25 year, and I would recommend that if they don't

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that you not grant that extension. It is before the board. I think the hearing was open in August. I don't know the current schedule. My thought is we need to calendar it again before the December expiration, and I don't know if that means we want it on a November date or the first date in December. Hopefully we'll have a decision by then and you'll be in a position to rule on this request.

MR. GOLDEN: We've been before the ZBA. The public hearing was open and then extended until last month. They then decided to keep the public hearing open until October, I believe it's the 22nd. I expect that they'll close it at that time and then they'll have sixty days from that time to have their decision. So we're going to bump up against that, depending upon whether they have their decision earlier rather than later. If they have their decision earlier I think it will make it easier. If they have their decision later it makes your decision harder.

CHAIRMAN EWASUTYN: In your letter you had written I think we were all kind of penceling in to have you for an agenda item on the 5th of

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November. In listening to the discussion before us now, we're going to have to keep a date uncertain open waiting for the ZBA to make their final decision. I think they'll close the public hearing at the end of the October. Is that not correct?

MR. GOLDEN: They should close the public hearing on October 22nd, and then they have sixty days to make their decision. They can make it that night or make it the following month and still have enough time to leisurely meet on the December meeting and go ahead and have your decision made.

MR. DONNELLY: Rick, I think the two year and two year plus period runs from entry of the resolution in the office of the town clerk.

MR. GOLDEN: Which will be somewhat after that but I don't know right now what that date is.

MR. DONNELLY: I'm sure it wasn't December 20th or the 21st. It may have been a week or so after that, although we try to do them within the five-day requirement of the code. There may be a little more time than December

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20th.

CHAIRMAN EWASUTYN: Okay. I think for now what I'm trying to get an agreement on is do we tentatively pencil it in for the 19th of November, which will be two weeks following the 5th, or do we carry it into the first meeting in December in which case --

MR. DONNELLY: December 3rd.

CHAIRMAN EWASUTYN: Mike Donnelly, December 3rd. Are you comfortable with that?

MR. GOLDEN: I think the December date, Mr. Chairman, probably makes the most sense so that we don't have to show up and then -- I'm not sure it's going to be done by that date.

MR. DONNELLY: You also have a meeting on December 17th which would be before the --

CHAIRMAN EWASUTYN: Either date is fine with me.

MR. GOLDEN: December 3rd quite frankly --

CHAIRMAN EWASUTYN: Let's go with December 17th. That will allow everyone the opportunity.

Okay. I'll move for a motion to --

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MR. GALLI: John, I just have a question on that. If the ZBA denies him that night on the 24th of October, holding it off that long to the December meeting, would that affect them at all?

MR. DONNELLY: Would you want an advance for your purposes in the event they denied it?

MR. GOLDEN: I would -- it probably makes sense because, you know, it certainly would be no secret that if in fact we do get denied we'll most likely seek relief in the courts. I think we feel so comfortable now in this project --

CHAIRMAN EWASUTYN: Can I make a recommendation?

MR. GOLDEN: Yes.

CHAIRMAN EWASUTYN: We discussed it this evening. I'll wait until I receive a letter from you and then we'll act under that letter.

MR. GOLDEN: That's fine.

CHAIRMAN EWASUTYN: We're getting to spend a lot of time now. Originally we were going to do it on the 5th. That's what the

1
2 purpose of this was. I wasn't aware you were
3 going to be here this evening to discuss it.
4 We're allowing you the floor to discuss it but
5 now we're getting into dialogue that I would like
6 to avoid because it's a lot. So the ball will be
7 in your court and I know you'll act appropriately
8 and let me know that you're ready and we'll move
9 accordingly.

10 MR. GOLDEN: Okay. I will do that.

11 CHAIRMAN EWASUTYN: From where I sit
12 it's difficult to manage the scenario. That's
13 why people sometimes call and when we're very
14 busy; John, pencil me in for a date on the
15 agenda, I say I can't do that. First in line,
16 first in time. It just works a lot easier.

17 MR. GOLDEN: That's fine. As soon as I
18 feel comfortable I will go ahead and ask for the
19 -- to be put on the agenda. The only concern
20 that I have is that if I ask at that time and the
21 agenda is backed up and then we miss the December
22 20th date --

23 CHAIRMAN EWASUTYN: With the
24 understanding that you'll never miss the December
25 20th date. That goes without saying. For your

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2 comfort most certainly. For us to say the Board
3 is in agreement between now and December 20th we
4 will be putting you on an agenda.

5 Is the Board in agreement?

6 MR. GALLI: Yes.

7 MR. BROWNE: Yes.

8 MR. MENNERICH: Yes.

9 MR. FOGARTY: Yes.

10 MR. WARD: Yes.

11 MR. MENNERICH: A regular agenda, not
12 Board business?

13 CHAIRMAN EWASUTYN: Correct.

14 MR. GOLDEN: Thank you very much. I
15 appreciate it. Have a good night.

16 CHAIRMAN EWSUTYN: I'll move for a
17 motion to close the Planning Board meeting of the
18 1st of October.

19 MR. GALLI: So moved.

20 MR. MENNERICH: Second.

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

25 MR. GALLI: Aye.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes.

(Time noted: 8:35 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 20, 2009