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

----- X

In the Matter of

FLETCHER DRIVE SUBDIVISION - EAST ROCK CUT CORP.
(2018-11)

Fletcher Drive
Section 93; Block 1; Lot 64.5
R-1 Zone

----- X

FOUR-LOT SUBDIVISION

Date: November 1, 2018
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
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. We'd like to welcome you to the Town of Newburgh Planning Board meeting of the 1st of November. We have three items of business this evening.

At this time we'll turn the meeting over for a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MS. DeLUCA: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney, present.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Code Compliance Supervisor.

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

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

CHAIRMAN EWASUTYN: At this point I'll
turn the meeting over to John Ward.

MR. WARD: Please stand to say the
Pledge.

(Pledge of Allegiance.)

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

CHAIRMAN EWASUTYN: The first item of
business this evening is Fletcher Drive
Subdivision, East Rock Cut Corp. It's a four-lot
subdivision. It's located on Fletcher Drive in
an R-1 Zone. It's being represented by Justin
Dates of Maser Consulting.

MR. DATES: Good evening. Justin Dates
with Maser Consulting. We're representing the
applicant, East Rock Cut Corp.

Our last time before the Board we
presented a sketch site plan for a proposed four-
lot subdivision. Since that time we've done
additional soil testing to design our septic
systems on site and put together our preliminary
subdivision plans as well as a SWPPP for erosion

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control. That's what was recently submitted to the Planning Board.

The project since that time hasn't changed. It's still a four-lot subdivision. The existing parcel is a little over 8 acres in size. It's in the Town's R-1 zoning district so the minimum lot size is 83,000 square feet for a single-family home.

It has frontage along Fletcher Drive North to the south, and then we also have an access out to Fletcher Drive, the dead end portion there.

Currently there was a prior building permit pulled to build a single-family house. That's currently under construction. Last I checked he has the septic in, the house is all buttoned up and they are working on that.

Our project again is a four-lot subdivision. The minimum lot size is about 83,000 square feet. We're right around 2 acres apiece for each lot. So we divided the lot up into basically four equal pieces.

They are single-family homes. They will be serviced by municipal water. There's an existing water main in Fletcher Drive North that

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we'll be looking to connect services to.

We will have on-site septic. As I mentioned, we've been out there on a couple of occasions to do our soil deep tests and soil percolation tests to design our septic systems. Each system is going to be -- it's a shallow system all fed by gravity, no pump stations.

For access to each of the lots, what we have is lot 1 will have a single driveway out to Fletcher Drive North; 2 and 4 we're looking to have a common driveway which will connect to the dead end portion of Fletcher Drive; then, as I mentioned, the existing single-family that's under construction has it's driveway out to Fletcher Drive as well.

That summarizes the project.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: No additional.

MS. DeLUCA: No questions.

MR. MENNERICH: No questions.

MR. DOMINICK: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Pat Hines,

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Consultant?

MR. HINES: We have a couple of comments. The survey plan you provided needs to be incorporated into the set and numbered appropriately so it can be filed with the County. I know it's not your plan but it needs to be incorporated into that and numbered appropriately.

Sheet 2 is labeled a demolition plan. It's more of a tree clearing plan.

MR. DATES: We called it existing conditions demo plan, but there's no structures to be demo'd.

MR. HINES: I just wanted to make sure that that was the case, there are no structures.

MR. DATES: We can change that to clearing.

MR. HINES: Probably tree clearing, limits of clearing plan or something.

MR. DATES: Okay.

MR. HINES: Common driveway access and maintenance agreements will be needed for lots 2 and 4. That needs to be submitted to Mike's office for review.

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Standard notes for connection to the water system are not on the plan. I think we provided them. It does need to be added to the plan. The Town has a list of standard notes required.

The stormwater pollution prevention plan has been submitted. It's residential, less than 25 percent impervious, between 1 and 5 acres. The erosion and sediment control plan is all that's required.

A DEC permit will need to be obtained prior to commencement of construction.

Some of the water laterals are in excess of 300 feet long. We want to check the pressure out there to make sure that's going to be adequate. I don't have any information. If you can get a hold of Jim Osborne to make sure, the water department, to get information on that. We want to make sure that length can provide adequate pressure or upsizing to one inch.

MR. DATES: We'll do a calc. It may go up to one inch in size.

MR. HINES: There's a tree clearing requirement based on the presence of potential

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habitat for bat species. A note should be added on the plans stating that tree clearing timeframe.

The highway superintendent's comments on the driveway locations are still outstanding.

MR. DATES: For the common driveway, the maintenance agreement -- access and maintenance agreement, do you have standard language?

MR. DONNELLY: I can send you a sample agreement that would be acceptable to me.

MR. DATES: That would be great.

MR. DONNELLY: Give me your card before you leave and I'll e-mail it to you.

MR. HINES: Our comments are technical in nature. We would recommend a negative declaration at this point if the Board feels comfortable with that.

CHAIRMAN EWASUTYN: The first meeting date in November is?

MR. HINES: December.

CHAIRMAN EWASUTYN: December. Excuse me.

MR. DATES: It would be the 6th.

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MR. HINES: It will be December 6th.

CHAIRMAN EWASUTYN: Having heard from our consultant Pat Hines, I'll move for a motion to declare a negative declaration for the Fletcher Drive Subdivision, East Rock Cut Corp, and to schedule a public hearing on the 6th of December.

MR. DOMINICK: I'll make a motion.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Motion made by Dave Dominick, a second by Ken Mennerich. I'll ask for a roll call vote starting with Frank.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Justin, you'll work with Pat Hines as far as the notice for the public hearing.

MR. DATES: Yes. Absolutely.

CHAIRMAN EWASUTYN: Thank you.

MR. DATES: It's ten days prior;
correct?

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MR. HINES: Yeah. We'll do the publication. It's similar to posting -- it has to be posted on the site similar to what you did with the neighbor notification.

MR. DATES: Thank you.

(Time noted: 7:05 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of November 2018.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

233 QUAKER STREET/DRIVANOS TWO-FAMILY
(2018-19)

233 Quaker Street
Section 2; Block 1; Lot 15
AR Zone

----- X

INITIAL APPEARANCE - TWO-FAMILY

Date: November 1, 2018
Time: 7:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

----- X

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CHAIRMAN EWASUTYN: The second item of business is 233 Quaker Street/Drivanos Two-Family. It's an initial appearance for a two-family. It's in an AR Zone.

Pat Hines will discuss the project with us this evening.

MR. HINES: This is an existing site. There is an existing, what was a single-family dwelling on the site and what is identified on the plans as a barn.

The applicants are proposing to remove the remains of that residential building and convert the existing barn into a two-family residence. It has the square footage of the lot in that zone to allow that.

The plans don't currently have a bulk table. I talked to the applicant's representative who did the plans we have and he was retained to provide the septic system design. He believes there's an architect that's going to provide a bulk table, a plan sheet with the bulk table. That's going to need to be done.

We need the four parking spaces to serve the two-family residence shown on the

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plans.

The code requires architectural submission. It looks like a single-family home with only one entrance. We don't have any architecturals yet. They'll need to be submitted.

There needs to be a note on the plans regarding the as-built drawings and certification for the septic systems. There's a comment on the separation distance from the septic system. The applicant's engineer did e-mail me today and he's going to send a letter confirming the elevations and the direction of the surface water flow from the septic systems.

It does require a public hearing.

We're suggesting that any conditions of approval require the removal of the existing structure prior to issuance of a building permit for the two-family residence.

CHAIRMAN EWASUTYN: So Mike Aiello did receive a copy of your review comments?

MR. HINES: Mike received a copy and he e-mailed me back responses today, which were acceptable, regarding the septic system. We just

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need the plan sheet with the bulk table.

It looks like, in reviewing the engineer's plan, that there are no zoning issues with the bulk table. I just need a bulk table on the plan.

This also would require a public hearing if the Board desired.

CHAIRMAN EWASUTYN: Would you on Monday -- well tomorrow you could do it actually, let Mike know about the informational letter that needs to go out, if you could discuss that.

MR. HINES: Yes. I'm not sure he's the one. I'll have to find out who the architect is. If in fact you scheduled a public hearing for that next date, the informational letter would go out with the public hearing.

CHAIRMAN EWASUTYN: You want to do it that way. Okay.

Comments from Board Members?

MR. GALLI: No.

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

MR. CANFIELD: Yes. Relative to Pat's number 8 comment, the applicant did apply and

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received a demo permit for the existing single family. They haven't closed it out yet but I believe it's down.

MR. HINES: It was on the map.

MR. CANFIELD: The architect is Linda Zwart.

CHAIRMAN EWASUTYN: Okay. Our third item of business this evening --

MR. HINES: Did you want to schedule that public hearing?

CHAIRMAN EWASUTYN: Excuse me?

MR. DOMINICK: The public hearing.

CHAIRMAN EWASUTYN: Do you think we can do it so soon? All right. That's fine with me.

MR. HINES: It's up to the Board. You haven't seen the architectural drawings but we can see them that night.

CHAIRMAN EWASUTYN: Good enough.

I'll move for a motion to declare a negative declaration and to set this for a public hearing on the 6th of December also.

MR. WARD: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: Motion by John

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Ward. Second by Frank Galli.

MR. HINES: Actually John, Jerry just mentioned, it's on the Ulster County line so it needs to go to County Planning. We can refer that now.

CHAIRMAN EWASUTYN: I'll make a motion to rescind the negative declaration.

MR. HINES: The neg dec can stay. It's just the scheduling. Hold on the scheduling of the public hearing because the County is going to take the thirty days.

CHAIRMAN EWASUTYN: We'll continue on with the negative declaration and just hold on the public hearing.

MR. GALLI: So moved on the negative dec.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. The second was by Ken?

MR. MENNERICH: I'll second it.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

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MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 7:10 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of November 2018.

Michelle Conero

MICHELLE CONERO

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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
(2018-10)

Union Avenue & Orr Avenue
Section 96; Block 1; Lots 6.2 & 11.1
IB Zone

----- X

PUBLIC HEARING - AMENDED SITE PLAN

Date: November 1, 2018
Time: 7:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: JEREMY SECARAS

----- X

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CHAIRMAN EWASUTYN: The third item of business this evening is the Shoppes at Union Square. It's a public hearing for an amended site plan. It's located in an IB Zone. It's being represented by Langan Engineering.

I'll ask Mr. Mennerich to read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 276 of the Town Law and Chapter 83 of the Town of Newburgh Code, on the application of N&N Union, LLC (Shoppes at Union Square amended site plan/Shoppes at Newburgh), project 2018-10, for an amended site plan and clearing and grading permit. The project proposes to amend a previously approved site plan changing the phase 2 approval from a single 18,102 plus or minus square foot retail structure to the current proposal consisting of two separate retail buildings of approximately

19,130 square feet in the same location as the previously approved retail building. The site is served by municipal water and sewer. An updated stormwater pollution prevention plan has been provided. Stormwater quantity and quality control practices have previously been constructed during phase 1. Access to the project remains as originally approved with access from New York State Route 300 and Orr Avenue. The project is in the IB Zoning District. The premise is located at the intersection of New York State Route 300 and Orr Avenue and is known on the Town of Newburgh tax maps as Section 96; Block 1; Lots 6.2 and 11.1. A public hearing will be held on the 1st day of November 2018 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 27 September 2018."

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to Langan Engineering and

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the engineer.

MR. HINES: Do you want me to run through --

CHAIRMAN EWASUTYN: Let's let him introduce the project.

MR. SECARAS: Sure. My name is Jeremy Secaras, I work for Langan Engineering. I'm a licensed PE in New York State.

We're here for the amended site plan approval for Shoppes at Union Square. Tonight I'll briefly recap our prior presentations for your benefit.

The site is located at the corner of Orr Avenue and Route 300. It is Block 1; Lot 6.2. We received site plan approval for a retail shopping center for development of the overall property shown here in yellow. That was subsequently broken out into phases, and the phase 1 portion was constructed in 2012.

We're here tonight to seek approval for an amended phase 2 portion of the project which is immediately adjacent to the constructed phase 1 portion and to the west of it.

The new layout is very similar to the

1 originally approved layout, which was an
2 approximately 18,000 square foot single building
3 which has been split into two smaller retail
4 buildings.
5

6 I'll show you now a rendering of the
7 phase 2 portion of the site. The phase 2 portion
8 is approximately 2 acres. It is the upper
9 portion. Phase 1 is constructed below.

10 There's a small stream on the northwest
11 portion of the property. Neither the stream nor
12 it's banks will be disturbed in the phase 2
13 portion of the project.

14 There are several variances which were
15 previously granted. We're not seeking any
16 additional variances at this time.

17 Landscaping will be generally
18 consistent with the original approval. The
19 internal landscaping in the parking lot exceeds
20 the Town's requirements.

21 The lighting will also be consistent
22 with the original approval. The lighting
23 fixtures will match that in the phase 1 portion.

24 The stormwater management system was
25 designed in phase 1 and installed in phase 1 to

1 handle both the stormwater for phase 1 and phase
2 2. There's actually, you can see on here, a
3 couple different basins that are installed in
4 phase 1, and there's a subsurface detention
5 system that's installed underneath the parking
6 lot in phase 1. That services the phase 2
7 portion as well. The stormwater system was
8 designed to exceed the State's standards for
9 water quality and quantity requirements. Water
10 quality was designed to provide 110 percent of
11 the required water quality volume and therefore
12 exceeds the New York State DEC standards by 10
13 percent.
14

15 In addition, the revised layout that
16 we're now seeking reduces the amount of
17 impervious area and has a smaller watershed by
18 about a tenth of an acre. This is smaller than
19 what the original system was designed and
20 installed for, which technically increases the
21 extent to which we exceed the State standards for
22 water quality and treatment.

23 During the construction of phase 1 we
24 also installed utilities that were stubbed up and
25 run through phase 1 for the future use in phase

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2, including water, sanitary and gas.

We have since submitted an application to the Orange County Department of Health for the water supply permitting and have received their approval.

We reviewed the sanitary application which was originally granted for the overall project. The new layout in combination with the total layout is now about 800 gallons less than the original allocation, so it's still consistent with that approval.

We received several comment letters from the Board and it's consultants over the last presentation. I believe at this time we've addressed their concerns.

That's it.

CHAIRMAN EWASUTYN: At this point I'll turn the meeting over to Pat Hines.

MR. HINES: Some of my introduction is going to mirror what the applicant's representative just said.

Just to provide the public with some history and some information clarifying the project and some of the issues that have

1 developed during the review of the project, the
2 Shoppes at Union project was originally presented
3 to the Planning Board in 2007. At that time the
4 project consisted of 63,000 square foot of retail
5 in five buildings, including the building which
6 currently houses the Cosmo's restaurant, which is
7 one of them.
8

9 During the review process a project
10 modification was proposed in 2009 which
11 identified a total of 87,000 square foot of
12 retail in three buildings. The three buildings
13 were then identified on the plans as a grocery
14 store, a 65,000 square foot footprint, 71,000
15 total area with a mezzanine, office area and some
16 storage. A Staples office supply building was
17 depicted in the phase 2 portion of the project
18 which we are reviewing tonight under the amended
19 site plan. A Vitamin store retail facility with
20 an additional minor retail totaling 4,820 square
21 feet, and that has been constructed.

22 That project received approval from the
23 Planning Board in 2010 as a comprehensive site
24 plan with no phasing. In 2012 the project
25 returned to the Planning Board with a phased

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approach, constructing phase 1, the Vitamin store; phase 2 being the Staples building; and phase 3 being the grocery store.

The current proposal before the Board involves an amended site plan of the phase 2 project for a single 18,100 square foot building and two retail buildings totaling 19,130, a net change of 1,028 square feet in the scope of the project in phase 2.

An amended grading plan has been provided which identifies an overall reduction in site disturbance of the tenth of an acre as the applicant's representative just identified.

All work within the phase 2 project proposed now is within the original footprint of the Staples store that had been previously approved. So that's a little history of the project as it went.

It has come to the Planning Board's attention that there's an issue regarding the classification of the stream. I want to clarify that now. The Board has reviewed the project since it's inception based on the stream classification being a class A stream. Stream

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classifications are a standard the DEC uses to designate water quality within the stream. Classifications range from class A, which this project was originally identified as. In 2008 there was some back and forth from the DEC regarding the stream classification as well. The Board has always reviewed this as a class A knowing that it's tributary to Washington Lake. There are other stream classifications, B and C. There's some correspondence and some information actually provided from DEC that the stream is a class C stream now, and that's off the DEC's website. Class C streams are waters that support fisheries and are suitable for noncontact activities for that. There's a class D, which is lower than that, which is all other waters. Until recently the DEC's website, the Environmental Resource Mapper as it's called, had the stream across from the project site labeled as a class A stream. Until recently. It is now, if you go on DEC's website, shown as a class C stream. We have some correspondence, e-mails with the applicant's representative and some representatives of DEC confirming in their

1
2 opinion it's class C. I just want to clarify
3 that all previous environmental review documents
4 and reviews by this Board were based on that
5 class A drinking water standard designation. The
6 Town Planning Board is aware that the stream
7 traversing the project site is capable of being
8 diverted to Washington Lake via the diversion
9 structure located between Adam's and the bank
10 site on Route 300. The DEC had issued a
11 protection of water permit, a stream disturbance
12 permit for the entire project in May of 2010.
13 That permit has currently lapsed but is for work
14 within the phase 3 portion of the project. The
15 permit also included a water quality
16 certification permit which was issued under the
17 Clean Water Act for filling of .06, six one-
18 hundredths, of an acre of Federal wetlands, also
19 in the phase 3 portion of the project, not the
20 amended project the Board is looking at tonight.

21 The stream disturbance permit was
22 issued for installation of a culvert in phase 3
23 accessing the loading dock project of the grocery
24 store in phase 3. In addition, it allowed for
25 the removal of a 54 inch diameter culvert which

1 served as a driveway to two residential
2 structures which are now currently vacant. These
3 permits from the DEC will have to be reissued.
4 The DEC's permit also notes that the stream is a
5 class A stream. So they've issued the permits
6 required for the construction of phase 3
7 identifying that the stream is a class A,
8 drinking water.
9

10 The Planning Board -- regarding the
11 stormwater management on the site, the Planning
12 Board has for several decades required stormwater
13 management plans which are more stringent than
14 the DEC's and the Town of Newburgh's own
15 regulations when projects are located within the
16 Washington Lake watershed. The DEC requires the
17 treatment of water quality volume from all
18 projects, requiring stormwater pollution
19 prevention plans from projects which disturb
20 greater than one acre. The Town of Newburgh
21 Planning Board requires that projects in the
22 watershed provide treatment of 110 percent of the
23 water quality volume required by the DEC and it's
24 own regs to be treated. This project is designed
25 in compliance with the Town's more stringent

1 requirements.

2
3 The water quality volume on this
4 project is treated utilizing sand filters,
5 similar to the technology that's utilized to
6 bring water in water filter plants through a
7 filter media. Two types of sand filters were
8 designed into this project. Phase 1, the
9 originally constructed project, and phase 2 are
10 tributary to a surface sand filter which is in
11 place and was constructed during the Vitamin
12 store phase 1 construction. Phase 2 and 3 have
13 proprietary sand filters designed through
14 concrete vaults under the parking lot.
15 Bio-retention areas have been incorporated into
16 the phase 3 project as well, which is another
17 method of water quality control utilizing filter
18 technology.

19 Water quantity control is provided by
20 under parking storage systems located under the
21 parking lots in phase 1 and phase 2.

22 The phase 1 stormwater management
23 system was originally designed to treat all
24 impervious surfaces from both the phase 1 and
25 phase 2 parking lot. The under parking storage

1 has been designed to meet DEC's unified
2 stormwater size. The under parking storage has
3 been designed to provide a controlled release of
4 stormwater through a combination of small
5 diameter orifices and weirs which have been
6 designed to provide the required discharge rates.
7 Peak discharges from the development have been
8 reduced for all designed storm events on the
9 projects. The one-year storm frequency project
10 had a pre-construction discharge of approximately
11 6 cubic feet per second and a post-development
12 discharge through the implementation of the
13 stormwater management facilities down to a little
14 less than 2. There are similar reductions for
15 the 10 and 100-year storm events that are
16 required by the DEC design standards.

17
18 The design of the stormwater system has
19 provided both water quality and quality control
20 in excess of that which is required by the DEC
21 and the Town of Newburgh's standards outside the
22 watershed. The design serves to mitigate impacts
23 associated with water quality from pre-
24 development and post-development site conditions.

25 In addition, the Town of Newburgh has a

1
2 system whereby all stormwater management
3 facilities are required to be bonded prior to
4 issuance of the final approvals, and also they
5 have a system which requires the applicant post
6 inspection fees that allow the Town to hire
7 outside consultants, typically my office, to
8 perform field reviews to make sure the stormwater
9 management quantity and quality controls are
10 constructed per the design plans.

11 CHAIRMAN EWASUTYN: At this point we'll
12 turn the meeting over to Mike Donnelly, Planning
13 Board Attorney.

14 MR. DONNELLY: Tonight is the public
15 hearing. As you've heard, this is an amendment
16 to an already approved site plan. You've heard
17 the presentation of the applicant and the outline
18 by the Planning Board's engineering firm.

19 In a moment the Chairman will ask those
20 that wish to speak to please raise your hand.
21 When you're recognized, would you step forward
22 please so that you'll be closer to the Board so
23 they can hear you. Tell us your name, spell it
24 if you would for our Stenographer so we get it
25 down correctly, and tell us where you live in

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relation to the project so we can better understand your concern.

The purpose of the hearing is for you to bring issues and concerns to the attention of the Board that they may not yet be aware of so that they can be examined by the consultant team. If you have a question that can be easily answered, the Chairman may ask the applicant's engineer or one of the Town's consultants to answer that question. The Chairman will recognize you. In turn, we would ask that you not ask to be heard again until everyone has been heard, and certainly if there's time you'll be given a second opportunity.

CHAIRMAN EWASUTYN: Thank you.

The lady in the front.

MS. NORTON URIE: Good evening. My name is Erika Norton Urie, I live at 155 Lander Street. I'm a resident of the City of Newburgh.

I've only just recently learned about this project but I am concerned about it. As you, I'm sure, know, the City of Newburgh is facing a very serious water crisis. I view it as almost like flint on the Hudson.

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I'm concerned about the construction of this project. Construction of a large scale project like this to me is -- there's pollutants involved. I'm concerned about Patton Brook. I'm concerned about anything that is going to disturb that brook and what is going to feed into Washington Lake, which is going to be our drinking water at some point. There are all sorts of issues going on in the City with filtration systems. We don't need more potential problems feeding into our drinking water. It's a serious issue for us. I'm very concerned about it as a City resident.

I view this project as, you know, something that's going to bring enormous revenue to the Town of Newburgh but no financial benefits to our City to alleviate, you know, whatever pollutants that may come along to our water system, to our Washington Lake, what feeds our water. So, you know, to me I see this as a revenue generator for this Town and a pollution generator for our City. I'm very concerned about it.

I'm also concerned about the local

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2 ecosystem. Does the Town -- does this area
3 really need another shopping center? Really? I
4 don't understand. A Staples, a grocery store.
5 There's a lot of development around here, and
6 it's happened, as I understand it, in an
7 accelerated period of time, over the last decade.

8 Those are my concerns. Thank you.

9 CHAIRMAN EWASUTYN: The gentleman here.

10 MR. GRICE: Anthony Grice, City of
11 Newburgh, 21 Flemming Drive. I am councilman at
12 large for the City of Newburgh, so I am very
13 sensitive when other people from other
14 municipalities come and insert their opinions, if
15 you will.

16 This situation here has me concerned
17 because the stream that was mentioned does have a
18 name, it's called Patton Brook. It feeds right
19 into Washington Lake.

20 I know that there was some confusion
21 with DEC and how they labeled it, but it should
22 be labeled as a class A. We have been having
23 ongoing conversations with them to label it as a
24 class A and keep it at that label. I'm hoping
25 that even if it doesn't, because when you go to

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see it, it is clearly a class A because it runs straight into Washington Lake, that me, meaning all of us, would treat it as such, as a class A.

I'm also concerned that if this development happens, that it will be 100 feet within Patton Brook. So as you know, if it's within 100 feet, the runoff, the accidental oil spills, the other things can go into that stream which will affect us.

I want to be clear about Washington Lake as well. The City of Newburgh has not given up on Washington Lake. We are fighting aggressively to get Washington Lake cleaned so it is not an abandoned piece of property for us. I believe that we will win that fight.

I think that this is a great opportunity for us to collaborate together. I am a supporter of business so I don't want it to come across like I'm not supporting business. If we say okay, we are not going to build within 100 feet of Patton Brook or anything on our watershed, that would be advisable.

That's it.

CHAIRMAN EWASUTYN: Any comments from

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Langan Engineers based upon Anthony's recent comment?

MR. SECARAS: No comment. Actually, I would just -- the only comment I would state is that this is something -- whereas Pat Hines, the Board's consultant, pointed out, we did look at this originally as a class A stream. The original stormwater measures that were put in were put in with the idea that it was above and beyond the State standards.

Furthermore, based on that approval, where we are right now is a reduced development as compared to what was approved. So in effect, it's providing more water quality treatment than it was even originally approved for. I'm saying it's better than it was.

CHAIRMAN EWASUTYN: The gentleman in the back.

MR. BARRICK: My name is Marcel Barrick, I am with the Newburgh Conservation Advisory Council and a resident of the City of Newburgh.

I appreciate the comments that you made, Patrick, about the stream being considered

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as a class A stream from the very beginning. The environmental assessment form that was put out by your consultancy had it labeled as a class C and a class A, which contributes to the confusion in this whole process.

We've been working with Orange County Planning and the DEC, talking about the confusion and the Environmental Resource Mapper having like erroneous classifications. What they wrote back to us is that they said -- this is the DEC -- it is necessary to verify classifications for water bodies in the tables that are linked to the Environmental Resource Mapper. It goes on to say that the Environmental Resource Mapper is a great tool to identify the location of the water body but includes the following disclaimer, that the DEC is not responsible for any inaccuracies in the data and does not necessarily endorse any interpretations of the products derived from the data, like the EAF.

So it really -- you know, this is a drinking watershed that's had like development from the top to the bottom of it.

From what we understand, the

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sub-tributary of Washington Lake has between 70 to 75 percent impervious surfaces, and that really like crashes the water quality. At 10 percent the water quality starts to decline, and it's significantly lower at 30 percent. We're at almost 70 percent in the upper part of this tributary. So even if there was like -- the design was 10 percent above the DEC's standard and there's less impervious surfaces, it really goes above and beyond what we've already witnessed, not to mention that the intensity and frequency of stormwater events is only increasing because of climate change, so you get more intense rainfalls more frequently. So the 100-year events that are eluded to just kind of happen a little more regularly. It's like one quarter inch of rainfall and you'll have a stormwater discharge into the Hudson River from a sewage treatment plant.

I also wanted to talk about the quality of the stormwater, because sand filters are -- I understand how it works. You know, it all drains down to a little spot, it goes into the sand filter and the small particles, the surface area

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and the sand filters allow for the pollutants to be like treated in the sand filter. It's actually not the cutting edge of technology. Sand is not the cutting edge of technology any more. If you look in the literature you'll see like stormwater management and you look up bio-char, it's like a carbon-based product, very little of it in the very surface of the top layer of the sand filter changes the outcome significantly. So if there's any sort -- it changes it significantly better. If there's any sort of like, you know, real like development that goes on in this project, it should really consider those. It should actually take it into effect. It's cheap. It's like carbon. It's like sand. It's like it's anywhere.

If you read the Orange County Department of Planning's reply to the Board, there's a number of -- there's a number -- there's actually four different impacts, traffic impacts, water protection and also consulting with the City of Newburgh. The City of Newburgh -- this is from a letter. "The City of Newburgh is actually -- is actively concerned in this

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2 matter due to the Patton Brook, Murphy's Ditch,
3 Washington Lake connection. Their input should be
4 taken into account in this development." I urge
5 you to do that.

6 Thank you.

7 CHAIRMAN EWASUTYN: Langan, any
8 comments?

9 MR. SECARAS: We did take into account
10 the City's comments. From that same letter the
11 City said that they appreciate that when the
12 project was originally considered the Board
13 required the applicant to design the stormwater
14 collection and treatment to be 110 percent of the
15 State's standards, and they asked that you hold
16 the applicant to the same requirement during the
17 current plan amendment in order to assure the
18 water quality of Patton Brook and Washington Lake
19 will not be negatively affected, and we are doing
20 that.

21 Furthermore, as I said, this is a
22 reduction in the impact as compared to what it
23 was originally approved, and the stormwater
24 systems are already in place.

25 CHAIRMAN EWASUTYN: Ma'am.

1
2 MS. MARTIN: Good evening. My name is
3 Rebecca Martin, I'm from Riverkeeper this
4 evening. We're based in Ossining. I'm from the
5 City of Kingston. I appreciate the opportunity to
6 speak this evening. I just wanted to read some
7 notes that we have.

8 So on behalf of Riverkeeper we urge the
9 Planning Board not to approve the amended site
10 plan for the Shoppes at Union Square development
11 proposal. On September the 6th of 2018 this body
12 voted to reaffirm the negative declaration under
13 the State Environmental Quality Review Act for
14 this project despite potentially significant
15 environmental impacts. Specifically the Shoppes
16 at Union Square may negatively affect Patton
17 Brook and Washington Lake, both of which are
18 essential to restoring what has historically been
19 the City of Newburgh's drinking water supply,
20 through the introduction of stormwater pollution
21 and the removal of forested land.

22 Riverkeeper hereby submits the
23 following comments on the proposal:

24 First, the Planning Board must ensure
25 that it's review of the amended site plan is

1 based on the correct stream classification. The
2 Shoppes at Union Square would impact a portion of
3 the Patton Brook watershed, the upper reaches of
4 which are part of the source waters for
5 Washington Lake, our regionally important
6 drinking water supply.
7

8 In 1892 Murphy's Ditch was created to
9 divert Patton Brook to Washington Lake near the
10 present day commercial development that includes
11 Home Depot, PetSmart and Kohls. New York State
12 has defined Patton Brook and it's tributaries as
13 class A from diversion sources. However, the
14 Department of Environmental Conservation's
15 Environmental Resource Mapper mistakenly
16 identifies a portion of Patton Brook upstream of
17 the diversion gates as class C, and the
18 environmental assessment form for the Shoppes at
19 Union Square, revised on the 21st of August in
20 2018, states that the water bodies on the class
21 -- on the site are class A and class C according
22 to the environmental assessment form.

23 Riverkeeper urges the Planning Board to consult
24 the New York State regulations and require the
25 applicant to revise the environmental assessment

1
2 form to include the correct stream
3 classifications.

4 Second, the Shoppes at Union Square
5 development proposal would put Patton Brook and
6 Washington Lake at further risk of stormwater
7 pollution due to an increase in impervious
8 surface area. Forested and other undeveloped
9 landscapes act as a natural buffer against
10 polluted runoff. However, the Shoppes at Union
11 Square would replace 3.28 acres of forest with
12 3.28 acres of impervious surface which acts as a
13 source of stormwater protection -- pollution,
14 excuse me, in the environmental assessment form
15 at 11. The applicant has indicated in the EAF
16 that the proposed plan would not minimize
17 impervious surfaces, use pervious materials or
18 collect and use stormwater. That's on page 6 of
19 the EAF. Development that adds impervious
20 surfaces and fails to mitigate increased runoff
21 will result in additional stormwater pollution
22 for Washington Lake.

23 Third and finally -- thank you for your
24 time -- Patton Brook and Washington Lake already
25 suffer from degraded water quality and are in

1 need of restoration. Results of field sampling
2 projects conducted by Orange County Water
3 Authority, the Quassaick Watershed Alliance and
4 Riverkeeper from 2012 to 2015 identified degraded
5 conditions in Patton Brook based on two different
6 indicators of water quality. The impact of
7 stormwater runoff was also evident in some of
8 these data. The DEC has proposed listing
9 Washington Lake on the draft New York State 2008
10 Section 303-D list of impaired TMVL waters due to
11 phosphorus pollution. The agency estimates that
12 88 percent of existing phosphorus going to
13 Washington Lake comes from developed land. In
14 addition, Washington Lake has been negatively
15 impacted by toxic discharges of PFAS associated
16 with firefighter foam, as we all know, used at
17 Stewart Air National Guard Base. All indicators
18 point to an at risk watershed that requires
19 active restoration, not further degradation.

20
21 So in conclusion, the failure to
22 correctly identify the portion of Patton Brook
23 upstream of the diversion gate as class A and the
24 replacement of forested lands with impervious
25 surfaces in an already impaired watershed could

1
2 result in further degradation of Patton Brook and
3 Washington Lake. Although Washington Lake is not
4 currently in use due to the presence of PFAS, the
5 long-term vision is to remediate the source of
6 the toxic pollution and the water quality so that
7 the City of Newburgh and it's neighbors can use
8 Washington Lake as a drinking water supply again.

9 Reducing current stormwater runoff,
10 preventing additional stormwater runoff and
11 maintaining and restoring land cover that can act
12 as a natural filter and buffer are essential to
13 achieving this long-term goal.

14 Thank you very much.

15 CHAIRMAN EWASUTYN: Can we go back now
16 as far as how this project was reviewed as to
17 whether we reviewed it as a class A stream or a
18 class C stream? Langan Engineering, Pat Hines.

19 MR. HINES: This project has been
20 reviewed and it is known to be a class A stream.
21 It was a surprise to me that the DEC's website
22 had it listed as a class C, which goes back to
23 Marcel's comment of why in the Board's
24 determination I label it as a class A/class C.
25 It's because of the discrepancies in the DEC's

1 information. As well, the applicants had
2 received an e-mail from a Region 3 DEC employee
3 identifying that the stream is a class C stream.
4 I was surprised of that as well, knowing the
5 history of this project and the fact that it is
6 in the Washington Lake watershed. So that was
7 the intent of the class A/class C item identified
8 in the reaffirmation of the negative declaration.
9 So this Board is aware of it. The DEC's permits
10 always were issued based on a class A standard.
11 Again, that's why the Board required historically
12 the additional water quality treatment that it
13 did require into the design plans and continues
14 today.
15

16 CHAIRMAN EWASUTYN: Thank you.

17 Do you want to discuss one more time
18 stormwater and how that's being managed?

19 MR. SECARAS: Sure. I mean just as a
20 reminder, the stormwater system was designed to
21 meet the Town's requirements as if it was a class
22 A because at the time it was designed that is
23 what it was identified as from DEC. The current
24 EAF we put together did identify it as a class C
25 because that is what DEC currently labels it as.

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That being said, the stormwater system that was designed and installed was done under the Town's purview and under the assumption that it was a class A because that's what it was designed for at that time.

In addition, I'll just point out that we are reducing the impervious as compared to what was approved on phase 2.

CHAIRMAN EWASUTYN: The lady here.

MS. EBERLE McCARTHY: Good evening. My name is Karen Eberle McCarthy, I am a member of the Newburgh Conservation Advisory Council and a resident of the City of Newburgh.

I would like to read a letter from our chair who was unable to be here tonight. "Dear Planning Board Chair and Members, thank you for allowing us the opportunity to comment on this important project. The proposed project is within the Washington Lake watershed and is transected by Patton Brook, a contributing member of the Washington Lake watershed. Patton Brook is classified by New York DEC as a class A stream, and all the waters and water head -- head waters feed to thus class A water. The potential

1 runoff from this project, absent additional
2 protective measures, will negatively impact the
3 City of Newburgh watershed and thus protection
4 must be put into action. Green infrastructure
5 and groundwater filtration must be provided and a
6 provision must be made for permeable pavement to
7 the full extent possible to allow natural
8 filtration for surface waters.
9

10 Regarding future proposed expansions.
11 The proposed supermarket location should be
12 designed to eliminate encroachment on the
13 identified wetlands for the important buffering
14 and filtration and water collection the wetlands
15 provide.

16 The CAC is grateful for this occasion
17 to present alternatives to the Town of Newburgh,
18 to provide stewardship to our critical regional
19 water resource. The CAC will be forwarding the
20 Planning Board a print copy of a biodiversity
21 assessment of Washington Lake, Browns Pond and
22 Snake Hill to assist in your planning process.
23 In the meantime, a link to the study is available
24 on the City of Newburgh's website," and I have
25 that here.

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Did you want a copy of this or --
because it includes the websites.

Thank you.

MR. FETTER: Ladies and gentlemen, good evening. Bill Fetter, 29 Rockwood Drive.

A clarification. When the amended site plan was submitted did you reconsider a SEQRA positive declaration at all or is that just a neg dec? Was it even put up to a vote?

CHAIRMAN EWASUTYN: Pat Hines.

MR. HINES: During the amended site plan the Board received a long form EAF for the project. The Board reviewed that long form EAF, including part 2, and identified and went over each item in the part 2. It did not identify any potential significant impacts that would warrant reconsideration of SEQRA. It drafted a re --

MR. DONNELLY: Reaffirmation.

MR. HINES: -- reaffirmation of the originally issued negative declaration which was completed on September 6th.

MR. FETTER: All right. A little more clarification. The applicant's representative said upfront I think that the surface area has

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been reduced. I don't know if that meant just the buildings or the total site impervious surface.

Pat, when you gave the building summaries I thought you said it went from one building at 18K to two that somehow came out to 19K.

MR. HINES: Correct.

MR. FETTER: So it sounds like it's enlarged.

MR. HINES: The impervious surface on the site has been reduced by that one-tenth of an acre. While the roofs are bigger, the graded area and the parking lot footprint was smaller.

MR. FETTER: All right. Let me catch up on my spots here.

Detention systems on sites in the City. Not only can we design these things to look great on paper, but maintenance, inspection, upkeep responsibility has to be enforced. There are places in Town that any time, and I will take anyone there, and I have, to show them compromising these things that are damaging, direct runoff into specifically that brook and

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others. So with these -- these places have to be maintained. The owner needs to be held accountable over time, not for the first two years or whatever the case may be. I'm talking now twenty years down the road that things are really degraded in certain spots.

You people are the only recourse that these people have and your grand kids who may be going to the Newburgh Free Academy, or wherever else here, to drink this water. You need to do your utmost. This may not be the perfect example to battle this thing but they have their concerns, and rightfully so.

A personal friend is sick from that water. You need to do your best for these people.

CHAIRMAN EWASUTYN: Do you want to discuss the maintenance and inspection of the system?

MR. HINES: The Town of Newburgh is a regulated MS-4 community by the DEC. As part of that Town's program, post-construction operation and maintenance of the stormwater infrastructure is a requirement that the Town has. The Town --

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2 again, some of the older ones are not. What the
3 Town currently requires, and this project will be
4 required if it has not in the previous approvals,
5 to execute a stormwater facilities maintenance
6 agreement which is filed with the property in
7 Orange County. That requires an annual
8 submission by a licensed engineer for a review of
9 the stormwater management systems and the various
10 components thereof.

11 MR. FETTER: Again, we can talk about
12 this all night. You've got to stick with it.

13 MR. HINES: We are actively pursuing
14 that as part of our MS-4. We annually -- the
15 ones that have the stormwater facility
16 maintenance agreements that are enforceable, the
17 Town sends out, through the town engineer's
18 office, letters reminding them and then again
19 reminding them. So we do receive -- many of the
20 projects constructed within the last I would say
21 eight years or so have those stormwater facility
22 maintenance agreements and are annually
23 inspected, and those inspections are delivered to
24 the Town.

25 MR. FETTER: I believe any applicant is

1 required to provide a grading plan showing
2 directions of surface flow, where it's going to
3 go. Well, that should be maintained. That
4 grading plan should be kept up and not curbs cut
5 to where water can go into streams because
6 somebody screwed up on the grading. That's got
7 to be fixed. This is going on in Town and I
8 don't want this to be another example.

10 Enough said on my part. Thank you.

11 CHAIRMAN EWASUTYN: This lady here.

12 MS. MAZELLA: Good evening. My name is
13 Toni Mazella, I am a Town of Newburgh resident
14 and very concerned.

15 Our neighbors, City of Newburgh
16 residents, and a lot of my friends are the ones
17 who told me about this project. I didn't even
18 hear of it. So then when I start researching it,
19 I realize we, as Town of Newburgh residents and
20 the Planning Board, need to look at this as a
21 neighborly thing. If there is confusion about A
22 or C or there is a potential problem of hurting
23 Washington Lake any more than it is, I feel we
24 have to be neighborly.

25 The other issue is hearing this is kind

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of upsetting to me as a Town resident because Staples -- you know, we already have a struggling Newburgh Mall with Office Depot. What is the Staples going to do to the Office Depot in the Newburgh Mall? Is it going to hurt it more? Maybe the Newburgh Mall will be no longer. And then we have another grocery store. Okay. Wal-Mart, Adams, Stop & Shop, Associates. It's like why? That's another question for me as a Town resident. Do we really need this?

That's my concerns. Thank you.

CHAIRMAN EWASUTYN: Can you clear the record as far as what's proposed?

MR. SECARAS: Sure. So just to clarify, the Staples was originally approved. That is not what is being proposed now. That is what's been split into two separate retail stores that you see here. So we're not proposing a Staples at this time.

CHAIRMAN EWASUTYN: Can we stop for a second? There are two buildings being proposed. You have a percentage of each building that has tenants that will be moving in. Can we take a moment to discuss who the tenants are in this

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building?

MR. SECARAS: Will you take that?

MR. CITERA: They're not signed. We're talking to people.

CHAIRMAN EWASUTYN: Okay.

MR. CITERA: Hi. I'm Nick Citera, I'm one of the principals of the project.

In this building, building D, Smoothie King is proposed here. It's about 1,700 square feet. European Wax Center is next to that. We have on this side is OrangeTheory Fitness. Then we just have other smaller retailer looking at this, local people and stuff like that. Again, these are just letters of intent.

CHAIRMAN EWASUTYN: The average size of each building is approximately how many square feet, and that would have a tenant that would accommodate that square footage?

MR. CITERA: I'd say today the average is right under 2,000. The only one that's a little bit bigger is OrangeTheory, and they don't have any like showers and stuff like that. It's a 3,100 square foot gym.

CHAIRMAN EWASUTYN: Additional

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questions or comments from the public? The gentleman in the back.

MR. POMARICO: Michael Pomarico. I'm confused about a few things and I just wanted some clarifications.

I agree with the people, what happened in the City of Newburgh is a tragedy. I guess they've traced that to the airport.

MR. DOMINICK: Where do you live, sir?

MR. POMARICO: I own the two properties adjacent to this.

My understanding was that the pollution in Washington Lake came through Silver Stream and not this particular creek in question here. Am I correct about that or am I mistaken?

CHAIRMAN EWASUTYN: Pat?

MR. HINES: I'm not a hundred percent sure. I believe both of them are impacted.

MR. POMARICO: I didn't think Patton was. I thought it was only over by 207 and coming through that way.

MR. HINES: I know the City of Newburgh currently has Murphy's Ditch closed.

MR. POMARICO: There was always a

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little brick house there. I remember when the lake was low they would divert water from that creek into the lake. They stopped doing that a long time ago. To my knowledge it runs straight through into Adams, and I think it ends up in the Quassaick Creek --

MR. HINES: Yeah.

MR. POMARICO: -- right over by where the Hurricane Grill is.

MR. HINES: Murphy's Ditch, the diversion is closed. It continues in it's normal path.

MR. POMARICO: So there really is no water from this creek entering Washington Lake?

MR. HINES: Potentially there is. The City of Newburgh, before the PFOS contamination, would have the option of that or Silver Stream.

MR. POMARICO: My understanding is all these PF -- what do they call it?

UNIDENTIFIED SPEAKER: PFOS.

MR. POMARICO: That they came from the Silver Stream on the Route 207 end, past Moroney's and down that way. That was my understanding of all that.

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All right. I was just curious about that. Thank you.

CHAIRMAN EWASUTYN: The lady in the back.

MS. CISSEL: My name is Karen Cissel, I live on 15 Forsyth Place in the City of Newburgh. I just came here tonight and was asked to read a letter from Manna Jo Greene. She's the environmental director of the Hudson River Sloop Clearwater. So this is her letter:

"On behalf of Hudson River Sloop Clearwater, I would like to express our concerns that the proposed development, the Shoppes at Union Square, not be allowed to negatively impact the Patton Brook or the Lake Washington watershed, the drinking source for the City of Newburgh which has already been negatively impacted by PFOS contamination and is now being actively remediated. The developer is proposing to develop on both sides of this important tributary to the Washington Lake reservoir. Clearwater and others in the Newburgh Clean Water Project are calling on the Department of Defense to prepare and implement a remediation plan for

1 the PFOS contamination on the Stewart Air
2 National Guard Base to ultimately be able to
3 restore Washington Lake to it's purpose as
4 Newburgh's drinking water supply. In 2015
5 Clearwater actively worked with the City of
6 Newburgh to develop a green stormwater
7 infrastructure plan with E-Designed Dynamics and
8 the Quassaick Creek Watershed Alliance, a green
9 infrastructure feasibility study and report for
10 the City of Newburgh to promote watershed
11 protection. We would welcome the opportunity to
12 work with the Town of Newburgh to extend this
13 valuable watershed plan to the larger watershed
14 in your Town and surrounding areas.

16 Protecting surface and groundwater for
17 the present and for the future generations is
18 central to Clearwater's mission.

19 The New York State Department of
20 Environmental Conservation, New York State DEC,
21 has acknowledged that Patton Brook has been
22 misclassified as a class C rather than a class A
23 stream, which they intend to correct. This
24 thriving stream is in a bucolic setting
25 surrounded by trees and wetlands and it's quality

1
2 should be protected. Perhaps adaptive reuse of
3 closing malls that are vacant and need
4 revitalization, including the implementation of
5 green stormwater practices, would be a much
6 better investment on the part of the Shoppes at
7 Union Square developers than paving over an
8 essentially greenfield site.

9 We agree with Councilman Grice's
10 statement that supports small business
11 development and respects elected officials'
12 rights to do what is best for their residents.

13 This project has plans to build within
14 100 feet of Patton Brook. Patton Brook has been
15 mislabeled by the Department of Environmental
16 Conservation as a class C, not good for drinking
17 water, which should be a class A because it flows
18 straight into Washington Lake. To be clear, the
19 City of Newburgh has not given up on Washington
20 Lake. What we demand is full remediation and
21 protection of our watershed.

22 Clearwater joins Councilman Grice in
23 asking the Planning Board and the Town of
24 Newburgh's elected officials to treat Patton
25 Brook as the class A stream that it clearly is

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and to not build within 100 feet of it's watershed.

Thank you for your consideration of these suggestions and our request to practice the best watershed protection principles in your jurisdiction and offer our assistance in doing so. Sincerely, Manna Jo Greene."

Again, she's the environmental director for the Hudson River Sloop Clearwater. Thank you.

MR. HOLLAND: My name is James Holland, I'm a City of Newburgh resident, 234 Grand Street.

This issue for me is sort of new because it's not something that I had ever really thought about my whole life until I moved to Newburgh. I only moved to Newburgh about four years ago. And so my wake-up call came two years into living here when we found out about all of the contaminants in Washington Lake. That's quite a wake-up call to have. I mean I thought I had been living, you know, a healthy lifestyle. It's quite a shock when you discover that you have to take a blood test, you find out that you

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have some of the highest toxins in the country in your blood, and I had only been living in Newburgh for two years. So there are plenty of people that had been drinking that water for decades. I'm sure they had much higher scores than I did. You know, I mean I just feel like we need to sort of take a fresh look at things. I mean I'm still discovering the area. When I realized, you know, I had -- I practically live at Home Depot. I didn't realize it was right up against Washington Lake. It seems really obvious that having that much development right around Newburgh's water source is a terrible idea, you know. I mean I just feel like we should be taking better care of our water sources. It seems like -- I mean I'm still discovering the Town of Newburgh as well. Today I went to Algonquin Park for the first time. I was sort of surprised to discover this whole thing about the watershed. There's a whole placard there about municipalities working together to take care of the watershed. You seem to -- I mean the Town of Newburgh has some great parks around, you know, your water sources. I've just been walking my

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dog there for the first time. It seems like you're doing a lot to help your own water supply.

I don't know how many of you had to get tested for toxins, but I can tell you it's quite a wake-up call when you do, and you will really rethink the whole issue in a more personal way when you find out that it's affecting your life.

Thank you.

CHAIRMAN EWASUTYN: Any additional questions? The lady in the back.

MS. HOLLO: Hi. Thanks for hearing us today. My name is Tamsin Hollo, I'm another City of Newburgh resident.

I did have some questions for you guys. I was wondering if you actually had been able to view the site yourselves with your own eyes? So I think you'll agree with me that it is -- as Manna Jo Greene said, it's a very bucolic setting.

When I was here for the review of this project the agreement was that there would be no great difference between that bucolic setting and this mall that we're looking at today. I would say there's a huge difference between the little

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2 stream running through wooded parkland next to
3 wetlands and a mall. So I would like just to
4 point that out, that there is a huge difference,
5 particularly for City of Newburgh residents.

6 Since the PFOS scare obviously there is
7 renewed interest in the quality of our water. I
8 understand that you have taken a great deal of
9 care over a period of many years, through many
10 iterations of this project, but we're at the
11 junction now that we're really taking a fresh
12 look at the degradation of our whole watershed.

13 You had asked before, you know, was
14 this specifically about PFOS. No, this is not
15 about PFOS. This is about a general degradation.

16 I appreciate that you mentioned that
17 Town of Newburgh has a very different principle
18 when protecting their own watershed as compared
19 to the City of Newburgh's watershed which
20 supplies 30,000 people.

21 I think many of us in this room have
22 friends who are sick. Many of us in this room
23 have friends who are wondering when they're going
24 to get sick in the future. So this is a very --
25 it's not business as usual for us at this

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junction.

So my question -- another question is is there a limit in general to the extent of development that the Town of Newburgh Planning Board can foresee in the City of Newburgh's watershed? Has that been something that has been discussed?

CHAIRMAN EWASUTYN: Mike Donnelly, Planning Board Attorney, do you want to answer?

MR. DONNELLY: Yes. The Town Board, not the Planning Board, sets the allowable uses and the density of those uses. This project is consistent with the Town Board's zoning for this area. The Planning Board, however, does study the environmental impacts. As you've heard, it goes significantly above and beyond both the DEC requirements and it's own requirements, and they do it for the Washington Lake watershed.

MS. HOLLO: I appreciate your stance --

MR. DONNELLY: I guess let me finish by saying if a property owner has undeveloped land and they bring a project before the Planning Board for a use that is permitted, the Planning Board would have to review that, and after

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appropriately mitigating any environmental issues, it would have to approve it.

MS. HOLLO: I completely understand your point of view. I mean you've heard from three environmental agencies today who have suggested that there will be degradation of this watershed. There will be a degradation of Patton Brook which is an important tributary to Washington Lake. I guess I'm wondering as City of Newburgh residents who are here as guests with you tonight but who are directly affected in very meaningful generational ways by this, is there a recourse for us, besides just appealing to your better nature about something that really does affect not only our health but the health of our children, about the health of our watershed and about this ecosystem?

CHAIRMAN EWASUTYN: Mike Donnelly again.

MR. DONNELLY: There are certainly things that can be done. Many communities have gotten the State to impose watershed regulations outside of their boundaries that limit and control development there. You may want to take

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that up with the State. If you want to see changes to the allowable uses, you'd have to discuss those with the Town Board. The third option is to purchase properties that are undeveloped for the purpose of protection. Certainly there are --

MS. HOLLO: So then --

CHAIRMAN EWASUTYN: Please, please, please. It's been a friendly meeting up until now and I'd like to continue that way. Thank you.

MR. DONNELLY: I live in Suffolk County Long Island some of the time. They have funds that they use, they impose taxes on real estate transfers that are quite large, and they buy millions of dollars of undeveloped property every year to protect a watershed that's also been influenced from Gabreski Airport that's near my home. My well was polluted. I know what you're talking about.

MS. HOLLO: I don't know if you know this but City of Newburgh property taxes, they might be going up to 7 percent. So we're tapped out. We're absolutely tapped out. Part of the reason that we as a City are tapped out is that

1 we do provide services to the surrounding
2 communities. That's not the entire reason but
3 that's part of the reason of this regenerating
4 community is that we are cash poor. I know you
5 specifically will understand that this does
6 happen to a lot of communities like ours that are
7 less well off than their neighbors. They do tend
8 to have a lot more environmental concerns.

10 MR. DONNELLY: Sometimes the State is
11 more apt to help a money starved community than a
12 wealthy one. So there are options.

13 MS. HOLLO: I will take that advice.

14 Thank you for your time in listening to
15 us. Please do trust me when I say that we're not
16 here to be contentious. We're here because we
17 really, really do have very real concerns. We do
18 see our friends and we see our families very
19 concerned about their health for the future. I
20 personally do know people that have started to
21 exhibit kidney issues which are related to PFOS.
22 We're just very concerned about this watershed
23 not degenerating any further.

24 CHAIRMAN EWASUTYN: We'll take some
25 final questions. The lady in the back.

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MS. TOMMS: Thank you. Good evening.
I'm very happy to be here tonight --

CHAIRMAN EWASUTYN: Your name, please?

MS. TOMMS: My name is Judy Tomms. I am a resident of the City of Newburgh. I also have a lot of experience in retail. I was a fashion designer for twenty years, a professor of brand management, marketing and retail management and strategy. I'm going to approach this from a different way because so many people have spoken so eloquently about our concerns for the environmental impacts.

I personally just drove today, on my way back from Home Depot, past Washington Lake to see what the site looked like and it was just full of beautiful trees.

I do know that there are hundreds of people in the City of Newburgh who could not attend tonight. A lot of people in the City of Newburgh do not have the transportation resources that the rest of us might have or the time because they have families to attend to and after school and evening activities.

So I'm looking at this mall, and I have

1
2 spent twenty years of my life going shopping
3 around the world for inspirational samples as a
4 fashion designer, and I have gone to malls, I've
5 gone to boutiques, I've gone to Tokyo,
6 everywhere, and I can tell you that the future of
7 the shopping mall is dying. It's dying.

8 I have an article here from Forbes
9 magazine, "Future of malls. The price for
10 overbuilding is coming due." This was January 9,
11 2018, so it's fairly recent. And Business
12 Insider just gave an early warning that the trend
13 of massive retail closings will continue this
14 year. "Through September 2017 Business Insider
15 counted some 6,403 store closures. And while it
16 predicts that retail closures will slow in 2018,
17 the trend is hardly over with another 3,600 by
18 early count slated to close." These are just the
19 announced closings. As reports from Green
20 Streets Advisory Group indicated, many more
21 retailers have shut mall stores on the QT. In
22 it's analysis of 950 malls, the top 25 national
23 retail tenants that closed stores in 2017, about
24 half, more than 1,200, were retailers that made
25 no public announcements but went out of the malls

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quietly, to which Green Streets Advisory Group concludes these silent closings present a significant risk factor to the sector. The list -- and then it goes on to list all of these stores.

So we have a dying shopping mall already on Route 300. The stores that you are talking about being in this retail space aren't really significant stores that I would be interested in going to. What was one of them? Like the juice yogurt something?

MR. CITERA: Smoothie King.

MS. HOLLO: The Smoothie King. That's -- that's not even a money maker. So it doesn't even make any sense for the Town of Newburgh to support something like this when you already have in the Town of Newburgh dying malls. I personally will drive to Middletown because you've got a whole lot of shopping choices there, or I'll go over across to the Poughkeepsie Galleria and that whole strip. We don't need any more. We just don't need any more. It just doesn't make fiscal sense to take a risk, and at the same time take a risk that you might get into

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some lawsuit with, you know, environmental agencies. I just don't feel that this is worth your time and your risk. I know you spent a lot of time working on this but I just don't feel that this is a smart thing to do.

Thank you.

CHAIRMAN EWASUTYN: The lady here.

MS. WOLF: Hi. My name is Ophra Wolf and I'm a resident of the City of Newburgh.

The first thing I'd like to share with you is some data that I was privy to at a recent meeting with the Department of Health and the DEC. They recently concluded and updated SWAP, a source water assessment, of the City of Newburgh which had not been updated since the '90s. Unfortunately that is still in draft form and is not released in time for this meeting. We were actually only privy to a very small sliver of that information because it was in draft form. One of the things that we were given was based on the various watersheds. This goes to answer your question, sir. The level of contaminants that they had found in every watershed. So because we're speaking about this particular project, I'm

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only going to read the contaminants in the Patton Brook watershed, and I'm only going to read you the contaminants that are a medium or high level, meaning above negligible or low. So very significant.

We have here -- my phone screen is shattered so bear with me -- industrial organics, pesticides and herbicides, metals, sediments and turbidity, DPB precursors, phosphorus, microbials, protozoa, anteric bacteria, anteric viruses.

The next slide. This is contaminant prevalence due to discrete sources, meaning specific sources, not just in general. Petroleum products is very high. Other industrial organics is very high. As we heard from Riverkeeper, phosphorus levels have gone up recently.

Another important statistic that we received recently from Alisa Chay of the DEC at a Quassaick Creek Watershed Alliance meeting is one that was mentioned earlier, which is that at 10 percent impermeable pavement the water quality in a watershed goes down. At 30 percent impermeable pavement, that water quality decreases

1 significantly. The City of Newburgh's watershed,
2 without an increase of more pavement, is at 70 to
3 77 percent, and the Town of Newburgh is
4 responsible for that largely. We also have an
5 issue with the Town of New Windsor. But there is
6 going to be a reckoning, not just about closing
7 shopping centers. Times have changed. Part of
8 what has made times change is an awareness of the
9 crisis that we're facing. There's a PFOS crisis
10 but there's environmental crises that we are
11 hearing about all the time. So maybe ten or
12 twenty years ago we could say we didn't know
13 about this, we didn't realize this. We can't say
14 that today. This is going to be the legacy. To
15 continue to move forward and ignore -- if we were
16 looking at this as one discrete project, one
17 discrete project in a watershed, then yes, okay.
18 The DEC goes above by 10 percent of what the DEC
19 says. But this is not one discrete -- this is
20 the last bit of natural land. This is not a
21 discrete project. This is a part of a much
22 bigger system of development that has destroyed
23 the quality of water in the City of Newburgh.

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25 I know that the Town of Newburgh

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understands because we understand that the Town of Newburgh is actively purchasing land around Chadwick Lake right now as we speak to protect it's own reservoir from this kind of pollution.

This is absolutely an environmental justice issue, and this is also something that we can say ten years ago maybe we didn't know how to talk about this. Ten years ago we didn't have flint, we didn't have environmental justice all over the news. Today we're all aware of this. We all understand what it means for a very poor community of color that has already been so deeply affected, for their needs to continuously be ignored.

Now with all due respect to the developers, who I understand the Town feels they have property and they have a right to develop it, this is not about one individual's property, this is not about one Town's taxes.

When I was here two months ago when you reinforced the negative declaration, we made signs. The sign that I chose to make is a quote by Ismail Serageldin who is the director of the library in Alexandria which was reopened. It

1
2 says, "The wars of the twentieth century will be
3 fought over water." I asked you then to choose
4 peace because even if war is not your intention,
5 this kind of development is an attack on your
6 neighbors, and it's an attack on your neighbors
7 who are already at very high risk and who do not
8 have the means to defend themselves.

9 There will be a reckoning. There will
10 be an environmental reckoning for all of us on
11 many different levels. There just will be.
12 We're understanding that now. I know as
13 engineers you understand that.

14 I think that we can just start by
15 saying okay, we've gone so far in the wrong
16 direction and we have an opportunity to pause.

17 I also had the privilege of actually
18 visiting this property just this past weekend.
19 Sunday was a beautiful day, the leaves are in
20 full color. Just behind the parking lot of the
21 Vitamin Shoppe there's a little path that you can
22 follow and actually walk along the stream. This
23 is a gorgeous piece of land. We don't need
24 another shopping center. Put some picnic tables
25 up. Invite people to start connecting back to

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nature so we learn how to appreciate and protect it.

The Sears shopping center is going bankrupt. There's a huge lot across the street that was clearcut of trees and is sitting empty. None of this makes sense.

If you just look at it in a very simple way. Are you in favor of life? Are you in favor of good neighborly relations? Are we moving forward or are we moving backwards? I think that is really what we need to think about.

Thank you.

CHAIRMAN EWASUTYN: We're about ready to close the hearing. Is there anyone who would like to speak before we move in that direction?

The lady in the back, you haven't spoken yet. Ma'am, I was talking to you.

MS. MARSCHALL: Okay. Thank you. My name is Mary Marschall, I've lived in the City of Newburgh for ten years now.

I never imaged that I would have to depend on drinking water from a bottle because I can no longer rely on the water that's coming from the tap in my home. It's something we all

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have grown accustomed to that we take for granted, having easily accessible, clean drinking water.

The high level for PFOS I was told was 18.5. My number is 20.2. PFOA, the high number is 5.57, mine was 5.70. PFHXS, the high level is 5.60, mine is 12.3. The numbers go on. I know you get the idea. These are just the carcinogens that run through my bloodstream that were included in the testing. There's no doubt plenty more that are unaccounted for. I remember when I found out this I wondered how was this going to affect me, what cancer or cancers would this bring about, what health complications would this cause in my future. This isn't really about just me. This is about every single one of us. Every single person in this room. This is about everyone that lives here, that works here, that is just visiting Newburgh for the very first time. This is about all of us, not just those that live within the City limits. This is most definitely about those that have yet to drink the water here. This is about Newburgh's future generations of which you all are a part.

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We have, we have, but more importantly you have, an important decision or decisions to make because water is life and we all should have accessibility to clean water. Every single one of us. To give up on water is to give up on life, and to me that is just simply not an option. It sounds so simple and it sounds so basic, water is life, and yet, and yet you all have some important decisions to make.

Thank you.

CHAIRMAN EWASUTYN: Thank you. I think the gentleman in the back will be the last question. We'll summarize with Anthony, the Councilman for the City of Newburgh.

Please, sir.

MR. ALEXANDER: Good evening. Thank you for hearing us tonight. I'm sure we all really appreciate this very much.

My name is Neil Alexander, I'm a City of Newburgh resident. I've been asked to read a statement by Kevindaryan Lujan who is our Orange County Legislator.

The statement reads thus: "Good evening. My sincere apologies for not being able

1
2 to attend tonight's meeting but I'm currently in
3 budget hearings at the Orange County Legislature
4 and working hard to lower the tax burden for our
5 struggling communities. Nevertheless, today's
6 meeting is an important one. In the last few
7 weeks I have received multiple calls in regard to
8 proposed projects residents fear will further
9 pollute the City of Newburgh's watershed. While
10 I believe we all understand the importance of
11 continued economic development and the benefit it
12 has, it is also imperative that economic
13 development be both smart and sustainable. I
14 believe that the concerns of City residents is
15 validated by the current trends we have
16 witnessed. It is my hope that this body will
17 consider the environmental and physical impact
18 increased development will have on the region and
19 the health and well-being of the City of
20 Newburgh's 30,000 residents that will be
21 negatively impacted. Thank you for your
22 understanding and support. Best regards,
23 Kevindaryan Lujan, Orange County Legislator."

24 Thank you.

25 CHAIRMAN EWASUTYN: Our last comment,

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our closing comment from the public will be from Anthony, Councilman.

MR. GRICE: I want to recognize my fellow councilperson, Jonathon Jacobson who is in the audience. I do appreciate that he's here.

I wanted to clarify a few things. The Town Board is very, very aware of the City of Newburgh's stance. I have sent them an e-mail and have communicated. In fact, there are a few that are on that Board that I consider friends. So they are very aware of our stance on that.

For the State, as everyone is aware, we are in current litigation with the State to protect our watershed, and so that is ongoing.

Also, the City of Newburgh is open to buying property around our watershed that is at a fair market rate.

For the Patton Brook, sometimes we do use it as a secondary way of getting our water. I think they call it redundancy or something like that. So we have used it before.

MR. POMARICO: I don't know if you used it --

CHAIRMAN EWASUTYN: Please, please.

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Let's not get into it.

MR. GRICE: So at that time we have used it as a redundancy. Once our water is clean we will go back to using it as a redundancy.

There was something else that I probably lost. That's it.

CHAIRMAN EWASUTYN: At this point I'm going to turn to Ken Wersted. You looked at any potential traffic issues with the project.

MR. WERSTED: We concurred the current proposal with the original including the changes in the site plan relative to the single larger building to the individual two buildings, we had comments about the circulation. In large part it's consistent with the previous approval.

We also went back to the original traffic study that looked at this phase 2 development, including the supermarket, the phase 3 section. Relative to phase 2, the original traffic study actually looked at the traffic from a 22,900 square foot building. Through the process of the architecture and the site plan -- the site plans that eventually became approved by the Planning Board, it showed I think around an

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2 18,000 square foot building. So the original
3 traffic study analyzed a larger footprint, if you
4 will. Through the changes both in the size of
5 the current phase 2 and the original study, we
6 found the traffic to be consistent with what was
7 originally approved. The afternoon peak hour
8 traffic will be slightly higher, the Saturday
9 traffic will be slightly less. In general it's
10 pretty consistent with the original analysis.

11 We had a few comments about the
12 circulation around the property and access to a
13 couple of features that the applicant's engineers
14 have addressed.

15 At this time all of our previous
16 comments have been addressed.

17 CHAIRMAN EWASUTYN: Karen Arent,
18 Landscape Architect?

19 MS. ARENT: This project is going to be
20 landscaped consistent with the phase 1
21 landscaping. They did a nice job. They keep it
22 up very well.

23 There will be a native wildflower
24 mixture -- a native meadow mixture on the slope
25 that leads down to the creek area, so that will

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also help restore some of the pollinator and other native plants in our area.

There's only one little thing maintenance wise that should be looked at. On the corner of Orr and Route 300, the plum tree should be limbed up a little more so there's better sight visibility.

MR. CITERA: It's done.

MS. ARENT: Done already. Great.

There are a couple of ornamental grasses that should be moved back so that you can see easily.

MR. CITERA: On the corner?

MS. ARENT: Right on the corner.

MR. WERSTED: To clarify, it's the exit behind Cosmos onto Orr Avenue. When you look to the left you're looking toward some tall ornamental grasses.

CHAIRMAN EWASUTYN: Pat Hines, a summary?

MR. HINES: We don't have anything additional. They've addressed our outstanding comments. We previously commented on water and sewer, on the grading plan.

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2 Just to note that the original approved
3 2012 plan does, to the greatest extent practical,
4 preserves the vegetation between the proposed
5 grading and the Patton Brook. There are notes on
6 the approved plan that require the preservation
7 of those trees in those areas, and they are
8 clearly defined on the plan.

9 Otherwise I think our comments -- all
10 of our outstanding comments have been addressed.

11 CHAIRMAN EWASUTYN: Jerry Canfield,
12 Code Compliance?

13 MR. CANFIELD: I have nothing
14 additional.

15 CHAIRMAN EWASUTYN: At this point I'll
16 turn to Board Members. Frank Galli?

17 MR. GALLI: I've been in the City of
18 Newburgh, I grew up there thirty years. I've been
19 around this area for sixty-six years. I've seen
20 the changes in the City of Newburgh. For all you
21 people running out to Home Depot, you've got a
22 beautiful hardware store on Broadway now I've
23 been into. I've been into some nice restaurants
24 down on Liberty Street numerous times to eat.
25 You're getting some wonderful small businesses.

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I think that's what the Shoppes at Union Square is, small businesses. I don't consider it a mall. A mall is like you say the Newburgh Mall. The one that's going to go goes across the street, the galleria in Poughkeepsie, they're malls. The big box stores are dead. Everybody is shopping online. Everybody is going to the small mom and pop stores. They're going back.

I just feel that the project itself, he's done above and beyond what he should.

We always classified it as a class A stream. That's the way we've always looked at it.

Unfortunately Stewart had some issues that got into Washington Lake. I've seen the project over there over on 207 where they're trying to clean it up. I've see the filters across from Moroney's cycle up there on 207. I don't know what's going on between the City right now and the DEC. I know they are trying to clean it up. I don't feel this project is going to be a detriment to that stream at this time.

I do appreciate -- like I said, I grew up in this area sixty-six years. I've been through it all in the City of Newburgh.

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CHAIRMAN EWASUTYN: Stephanie DeLuca?

MS. DeLUCA: No comment.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I appreciate hearing all the comments concerning the City's water supply. That seemed to be the main emphasis of everything we heard tonight.

I guess my concern is that this project meets our zoning and has the environmental remedies in place. They're going to have to offset the effects of the concerns that have been brought up. So that's where I'm at.

CHAIRMAN EWASUTYN: Thank you.

Dave Dominick?

MR. DOMINICK: First I want to thank the public for coming out and sharing your stories. Especially you, Jim and Mary. I can personally relate to a health issue currently and what you're going through. My best advice is what I'm trying to do now is to take one day at a time. Okay. I hope it improves for each of you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'd like to verify. I'm from the Town of Newburgh. At the same time I

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don't look at you as neighbors, I look at all of us in the same boat.

UNIDENTIFIED SPEAKER: We're humans.

MR. WARD: We're all human. You've got to put it that way. We're on the Board to make it the best way we can legally and protect everybody. So we're going down the line making it the right way. That's how I want to say it.

Thank you.

CHAIRMAN EWASUTYN: At this point I'm going to move for a motion to close the public hearing on the Shoppes at Union Square, the amended site plan.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Frank Galli. I'm going to ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Aye.

Motion carried.

At this time I'll turn to Mike Donnelly, Legal Counsel for the Planning Board, to discuss with us conditions of approval for the Shoppes at Union Square amended site plan.

MR. DONNELLY: The approval would be amended site plan.

As we heard during the discussion, the County Planning Department has sent you a report and recommendation under Section 239-M of the General Municipal Law. They have recommended disapproval unless certain recommendations they made are met, and it's incumbent upon you to respond to those recommendations. No approval would be valid unless a majority plus one vote is taken if you don't comply with their recommendations.

So using the numbering scheme of the letter and the notes in the file, the comments tonight and the reports of your consultants, I will include the following report language in the resolution:

Item number 1 in their report addresses

1 the Washington Lake watershed. We will respond
2 the Town of Newburgh Planning Board has been
3 protective of the City of Newburgh drinking water
4 reservoir requiring 110 percent of the DEC
5 mandated stormwater quality protection
6 requirements. That has been accomplished here.
7 Stormwater treatment facilities have already been
8 constructed. The County is incorrect in it's
9 contention that this approval will increase
10 stormwater velocities leaving the site. The
11 plans before the Board will reduce such
12 velocities.
13

14 A, the review and approval of all
15 phases of this project was based upon considering
16 Patton Brook as a class A stream. A DEC renewal
17 permit will be required for phase 3 of this
18 project. This approval does not alter phase 3.

19 B, elaborate runoff protection measures
20 are incorporated into the plans and have already
21 been constructed.

22 MR. HINES: Along with that, I don't
23 know if you want to add -- I don't know if the
24 Board wants to discuss each of these. I have
25 some comments.

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CHAIRMAN EWASUTYN: How ever you want to manage it.

MR. HINES: Under B it states that no water shall enter Patton Brook without infiltrating into a ground filter, and as much stormwater as possible should be allowed to infiltrate on the site. The soils on the site -- the existing soils on the site are not conducive to infiltration practices due to the soil profiles they have. The groundwater elevations are not consistent with practices that would allow infiltration practices. That's why during the original design phase the sand filters were incorporated into the site. To provide engineered infiltration practices putting water -- putting groundwater -- water into the groundwater won't happen because of the existing soil conditions. The soils are mapped as erie soils which are not conducive to that. So I think that's the reason why we are not using infiltration practices but we are using the water quality sand filters and the under pipe -- under parking lot in-pipe storage for water quantity control.

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MR. DONNELLY: I'll include that language.

MR. HINES: Similarly, the response in item C, it states they require the applicant to use permeable pavement. Permeable pavement, again because of the existing subsurface soil conditions, is not a recommended practice. It would actually cause the water to purge, and possibly purge through there. In addition, using pervious pavement can allow pollutants to infiltrate through the pavement and into those relatively shallow groundwater tables whereas the other practice they use will provide treatment for that prior to discharge.

There's a recommendation to keep the required retaining walls in phase 2 and 3 as far from the stream bank as possible to protect the natural hydrology and floodplain of Patton Brook on site. At a minimum, the retaining wall should be kept outside the 500 year floodplain as delineated on the FEMA mapping. In receipt of that comment I had checked the FEMA mapping and there are no mapped floodplain -- 100 year or 500 year floodplains on this project site. That

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comment is not pertinent to this project.
I have a copy, and I showed the Board at work session a copy of the FEMA mapping identifying the fact that there is no 500 or 100 year floodplain on the project site.

Item E, which is an item we talked about at work session, and I think the Board is going to require that. It says -- it has to do with the City of Newburgh previously -- the board had a project previously, the City of Newburgh, and the applicant entered into an agreement to use more environmentally friendly ice control chemicals on the site. I've discussed that with the applicant's representatives and I think the Board was in favor of using alternative ice control material rather than using sodium or calcium chloride. There are other more environmentally friendly materials. I passed out at work session some cut sheets on various products that are available. I think the Board is going to require that as part of their approval. We're going to comply with item E by prohibiting the storage of any ice control activity or materials on the site and require the

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2 use of those environmentally friendly --
3 typically a manganese chloride and some other
4 additives are utilized rather than the sodium
5 chloride and the calcium chloride. There is a
6 standard for sodium in drinking water. The
7 application of sodium chloride for ice control
8 can impact that standard. The city manager's
9 letter to the Board identified that as a concern
10 as well as the County's letter, and we are
11 recommending to the Board that that be
12 implemented on this as well.

13 The next comment is the snow storage
14 area shall be delineated on the site. We're
15 going to recommend that that snow storage area be
16 depicted on the plans such that they don't
17 utilize -- piling that snow on the sand filter,
18 which would probably look like a good place for
19 the snowplow guy to put it isn't really the best
20 method to do that. It would be better it flow
21 through the system prior to that. I think that
22 that's a condition the Board can impose as well
23 in compliance with the County's comment.

24 Comment number 2, the City of Newburgh
25 consultation. It states that the City of

1
2 Newburgh is actively concerned in this matter due
3 to the Patton Brook, Murphy's Ditch, Washington
4 Lake interconnect. Their input should be taken
5 into account. We did receive a letter from the
6 city manager earlier in the process identifying
7 the 110 percent water quality and also
8 identifying the use of alternate deicing
9 chemicals. I think the Board has coordinated
10 with that. We heard from Councilman Grice
11 tonight as well with some of his concerns.

12 Item 2, wetland protection. That has
13 to do with the phase 3 project. The phase 3
14 project has that .06 acre wetland impact. The
15 County's suggesting that the project be
16 redesigned to remove the impact to that. That
17 wetland impact has been permitted by the DEC and
18 the Army Corp. Those two agencies have looked at
19 the impacts associated with that relatively small
20 filling of the wetland. It kind of -- the site
21 geometry and the lot lines, it's kind of
22 unavoidable to impact that small amount of
23 wetlands.

24 Item 4, I'm going to pass that over to
25 Ken, it had to do with traffic impacts, if you

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want to take a look at that.

MR. WERSTED: For item 4, looking at traffic impacts relative to the corridor, that was studied as part of the original analysis. We found that the project is consistent with that original analysis. We don't feel an additional traffic study is needed.

I think there's also --

MR. HINES: There's a recommended comment there regarding the air quality.

MR. WERSTED: The air quality. While I'm no expert in it, the air quality would be affected by this project if the proposed development were substantially larger than what was originally studied. Because it was consistent with that original analysis, I don't feel that that's going to be necessary.

MR. HINES: Those were the County's I believe approval subject to modification per the comments that we just addressed.

In addition, they've identified advisory comments. The first one has to do with the stream classification. I think we've talked about that at length tonight, all previous

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2 approvals and this approval. The Board is aware
3 that this site is in an area that is tributary to
4 Washington Lake. We do concur that the class A
5 stream classification would be appropriate for
6 the entire watershed above the Murphy's Ditch
7 diversion.

8 Ken just discussed air quality.

9 There's an endangered species comment
10 regarding the Upland Sand Piper. Actually, since
11 the original approvals, because time has past,
12 the applicants have coordinated with the DEC's
13 National Heritage Program and they did receive
14 back some additional threatened or endangered
15 species including the two potential -- the
16 habitat for two potential bat species. The
17 applicants have had a biologist address each of
18 those species as well as the potential for Bog
19 Turtle. That analysis confirmed, as well as the
20 Upland Sand Piper, that habitat is not available
21 for each of those species that were identified in
22 the more updated. This report identifies the
23 2007 report, the original. There's a 2018 report
24 that was also provided to the County from Mike
25 Nowicki, the project biologist.

1
2 There's a comment regarding complete
3 streets and the need for sidewalks on Orr Avenue.
4 Internal sidewalks to this site as well as a bus
5 connection to the phase 3 portion of the site
6 have been included. The Town does not want to
7 provide sidewalks along Orr Avenue. Quite
8 frankly, they won't go anywhere other than the
9 dead end. You'd end up at the New York State
10 Thruway at the end of Orr Avenue. The internal
11 site has been developed to be very pedestrian
12 friendly with the interconnects between all the
13 uses and the internal parking. Pedestrian and
14 bus connections have been provided.

15 There's a comment regarding shared
16 parking. The County is suggesting that we
17 provide shared parking. It's rarely at full
18 capacity. The Town has a parking code, and any
19 relief from that parking code would require
20 review and approval by the Zoning Board of
21 Appeals. The applicants have provided the
22 required parking on the site for the various
23 uses. Some of the original plans we had had
24 quite a bit more parking, and that has been
25 reduced over the review timeframe.

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That's the extent of County Planning's comments.

CHAIRMAN EWASUTYN: Thank you.

Any comments or questions from the Board Members?

MR. WARD: No.

MR. DONNELLY: In terms of conditions, we will carry a condition that all prior conditions of approval except to the extent modified herein are in place and will remain to be complied with.

Number two, snow storage areas must be adequately depicted on the plans before the plans are signed, and Pat will report on that before signatures.

Three, a DEC bed and banks permit renewal will be required before phase 3 is constructed.

Four, the applicant has offered to use environmentally friendly ice control products on the entire site at all times. That offer is hereby made a condition of this approval.

Five, it's the one that I already had before that.

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2 Next, all conditions attached to a
3 granted variance issued by the Town of Newburgh
4 Zoning Board of Appeals on November 24, 2009 are
5 made a part of this approval, and this approval
6 is subject to the same as if those conditions
7 were set forth herein at length.

8 There are a number of other agency
9 approvals that are required before the plans can
10 be signed. Some of them may have been obtained
11 already but we'll include a table within the
12 resolution as a checklist to make sure they are
13 done before the plans are signed or building
14 permits are issued.

15 The applicant shall copy the Planning
16 Board on all correspondence for those other
17 agencies.

18 Are we amending the ARB or is that not
19 being done at this time? Is there any new ARB
20 approval that goes with this or are we putting
21 that off until another time? Architectural
22 review.

23 MR. SECARAS: I know what it stands
24 for. I don't think we're amending that at this
25 time.

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MR. DONNELLY: You went from one building to two.

MR. SECARAS: We did submit -- I'm sorry. We did submit the plans as part of that.

MR. HINES: There is a set of architectural plans prepared by DeGraw & DeHaan.

MR. DONNELLY: I'm sorry. We did that review already. We will include approval of the amended architectural renderings.

The condition regarding phasing.

The requirement of landscaping maintenance.

The requirement under the code of ongoing parking lot maintenance.

There had been a requirement in the original resolution, I don't know if it's been satisfied yet, that a statement under Section 1660 of the Vehicle & Traffic Law authorizing the Town to enforce traffic and parking regulations on your site will be delivered. I think that's been done already but we'll keep it as a condition to carry over.

We will need a landscape security and inspection fee if the one on hand is not

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adequate. It was originally a \$4,000 inspection fee. Is that in place or is more needed?

MR. HINES: All previous ones have been released, landscaping.

MR. DONNELLY: We'll need a new one in the amount of \$2,000; right?

MR. HINES: Yes.

MR. DONNELLY: There's new landscaping.

MS. ARENT: We have to review the landscape cost estimate.

MR. DONNELLY: I'm sorry?

MS. ARENT: They need to submit a landscape cost estimate.

MR. DONNELLY: I'm talking about the inspection fee.

MS. ARENT: That depends on the cost estimate.

MR. DONNELLY: I'll put "In the required amount."

A stormwater improvement security and inspection fee.

If it has not been delivered already, a stormwater control facility maintenance agreement as required by the code.

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There was originally a requirement of approval of a water main extension. Has that been taken care of already? I'll leave it in there as a check.

MR. HINES: Leave it in. The applicant stated tonight they have it. I don't believe I've seen it.

MR. DONNELLY: Similarly, a sewer main extension security and inspection fee. We'll leave both of those in there.

MR. HINES: There is no sewer main. It's a sewer lateral.

MR. DONNELLY: Okay. Lastly, our standard condition that says no structures or facilities not shown on the approved site plan may be constructed without amended approval.

MR. HINES: This also was before the Board tonight for a clearing and grading permit under Chapter 83. That should be recited in there as well.

MR. DONNELLY: I'll include that language.

CHAIRMAN EWASUTYN: Any additional questions or comments from Board Members?

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SHOPPES AT UNION SQUARE

106

MR. GALLI: No.

CHAIRMAN EWASUTYN: Having heard the conditions for approval for the Shoppes at Newburgh amended site plan presented by Planning Board Attorney Mike Donnelly, I would move for that motion.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. Do I have a second?

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Second by Ken Mennerich. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried.

Thank you.

(Time noted: 8:55 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of November 2018.



MICHELLE CONERO

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

----- X

In the Matter of

TRINITY SQUARE
(2006-53)

Request for a Six-Month Extension of Preliminary
Site Plan Approval
From November 1, 2018 until May 1, 2019

----- X

BOARD BUSINESS

Date: November 1, 2018
Time: 8:55 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

----- X

MICHELLE L. CONERO
PMB #276
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Newburgh, New York 12550
(845)541-4163

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TRINITY SQUARE

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CHAIRMAN EWASUTYN: We have two items left this evening under Board Business.

I'll ask Mr. Mennerich to read the first one, and that's Trinity Square requesting a six-month extension.

MR. MENNERICH: It's a letter from Vincent Doce Associates dated October 11, 2018 to John P. Ewasutyn, Planning Board Chairman regarding Anthony Cocchia Junior, Trinity Square site plan, South Plank Road, Route 52, Section 60; Block 2; Lot 4.1, application 2006-53. "Dear Mr. Ewasutyn, at the April 19, 2018 Planning Board meeting preliminary site plan approval of Trinity Square, project 2006-53, was given an extension and it expires November 2, 2018. Mr. Cocchia is requesting another six-month extension of this approval. If you have any questions or comments, please feel free to contact our office. Thank you for your time and consideration. Respectfully, Darren C. Doce."

CHAIRMAN EWASUTYN: Would someone like to make a motion to grant the six-month extension read by Ken Mennerich?

MR. WARD: So moved.

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MS. DeLUCA: Second.

CHAIRMAN EWASUTYN: Motion by John Ward
that was?

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Second by Stephanie
DeLuca. Can I have a roll call vote starting
with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 8:57 p.m.)

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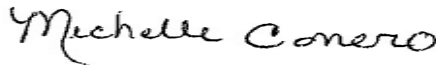
C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of November 2018.



MICHELLE CONERO

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

----- X

In the Matter of

AMY'S DOGGIE DOOS
ANIMAL CARE BUSINESS PROPOSED
FOR 446 SOUTH PLANK ROAD

Discussion

----- X

BOARD BUSINESS

Date: November 1, 2018
Time: 8:57 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN EWASUTYN: At this point we'll turn to Jerry Canfield, Code Compliance, to advise us on a letter that we received from Amy Randolph.

MR. CANFIELD: The Planning Board received an inquiry with respect to a 1,800 square foot building located at 446 South Plank Road from Amy Randolph. She would like to occupy the building with a change of use with Amy's Doggie Doos which is a dog grooming company and occasional housing of some stray cats in hopes of adopting the animals.

446 South Plank Road, as I stated, is an 1,800 square foot building which is subject to a potential variance so to speak -- an exemption, I should say, from the Municipal Code 185-56(B) which authorizes the Planning Board to waive the site plan requirements for structures under 2,500 square feet.

We discussed this at the work session. The building is located in the B Zone. The use is permitted per our Zoning Code. There's a section of the Zoning Code which governs this type of occupancy providing that all requirements

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are met within that section of the Zoning Code.

I believe the Board feels in favor of allowing this exemption providing that the requirements are met.

CHAIRMAN EWASUTYN: I'll poll the Board Members to see if they are in favor.

Frank Galli?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Stephanie DeLuca?

MS. DeLUCA: I'll abstain. I'm going to abstain.

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Yes.

MR. DOMINICK: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Okay. Let the record show that the majority of the Board was in favor of Amy Randolph's proposal and that the Code Compliance Department will monitor the building permit and all associated actions.

CHAIRMAN EWASUTYN: I'd like to thank Pat Hines, Mike Donnelly, Ken Wersted, Karen and all the Board Members for listening well and giving their best.

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At this point I'll move for a motion to close the Planning Board meeting of the 1st of November.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Motion by Frank Galli. Second by Ken Mennerich. I'll ask for a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 9:00 p.m.)

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MICHELLE CONERO