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

----- X

In the Matter of

GARDNERTOWN ROAD & MAURICE DRIVE SUBDIVISION
(2010-20)

Gardnertown Road and Maurice Drive
Section 74; Block 3; Lot 3
AR Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: November 4, 2010
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

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MR. PROFACI: Welcome to the Town of Newburgh Planning Board meeting of November 4, 2010.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

MR. HINES: Pat Hines with McGoey,

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Hauser & Edsall Consulting Engineers.

MR. COCKS: Bryant Cocks, Planning
Consultant.

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

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

MR. PROFACI: Thank you. At this time
I'll turn the meeting over to John Ward.

MR. WARD: Please stand up to say the
Pledge of Allegiance.

(Pledge of Allegiance.)

MR. WARD: If you have any cell phones,
please turn them off or put them on vibrate.
Thank you.

MR. PROFACI: The first item on this
evening's agenda is Gardnertown Road and Maurice
Drive subdivision at Gardnertown Road and Maurice
Drive, Section 74; Block 3; Lot 3, in the R-3
Zone. It's a public hearing for a two-lot
subdivision and it's being represented by
Lawrence Marshall.

MR. MENNERICH: "Notice of hearing.
Town of Newburgh Planning Board. Please take

1
2 notice that the Planning Board of the Town of
3 Newburgh, Orange County, New York will hold a
4 public hearing pursuant to Section 276 of the
5 Town Law on the application of Gardnertown Road
6 and Maurice Drive Subdivision for a two-lot
7 subdivision on premises intersection of
8 Gardnertown Road and Maurice Drive. Said hearing
9 will be held on the 4th day of November 2010 at
10 the Town Hall Meeting Room, 1496 Route 300,
11 Newburgh, New York at 7 p.m. at which time all
12 interested persons will be given an opportunity
13 to be heard. By order of the Town of Newburgh
14 Planning Board. John P. Ewasutyn, Chairman,
15 Planning Board Town of Newburgh. Dated October
16 12, 2010."

17 MR. GALLI: The notice of hearing was
18 published in The Sentinel and also The Mid-Hudson
19 Times. They sent out seven letters and six were
20 returned. The mailings and the notices are all
21 in order.

22 CHAIRMAN EWASUTYN: Mr. Marshall, if
23 you would make your presentation, please.

24 MR. MARSHALL: Good evening. My name
25 is Larry Marshall from Mercurio-Norton-Tarolli.

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I would like to apologize to the Board and everybody present this evening for my tardiness.

This is a proposed two-lot subdivision on the corner of Gardnertown Road and Maurice Drive. The site is currently vacant with some large trees. It's mostly open.

What we propose here is a simple two-lot subdivision with one of the lots, lot 1, accessing Gardnertown Road and the second lot, lot 2, accessing Maurice Drive.

Both lots will be served by public water and private sewage disposal systems. Both of the public water lines -- both of the water service lines will be tapped in off of the existing main that's on Maurice Drive.

The two lots are approximately 20,000 square feet in size and 17,600 square feet in size.

CHAIRMAN EWASUTYN: Thank you.

Mike, for the benefit of the audience, the purpose and meaning of a public hearing.

MR. DONNELLY: The purpose of the public hearing is so that the Planning Board, before it takes action on the project, hears from

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2 those who live in the immediate area, or further
3 away, so that you can bring to the attention of
4 the Planning Board issues or concerns that the
5 Planning Board might not itself have recognized
6 or might not have heard about from its various
7 consultants.

8 The applicant has just given his
9 presentation. In a moment the Chairman will ask
10 those who wish to address the Board to raise your
11 hand to be recognized. When you're recognized we
12 would ask you to please step forward so we can
13 hear you, give us your name and address so we
14 know where you live in relation to the project.
15 If you would spell your name for the
16 Stenographer, that would be most helpful.
17 Address the Board with your concerns. If you have
18 questions, the Chairman will, if they're easy
19 enough to answer, ask one of the Town's
20 consultants or the applicant's engineer to
21 provide answers to the questions.

22 CHAIRMAN EWASUTYN: Thank you. Is
23 there anyone here this evening who has any
24 questions or comments?

25 Would you please give your name and

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address, ma'am.

MS. TOKAROVA-BRUNO: It's Janette,
J-A-N-E-T-T-E, Tokarova, T-O-K-A-R-O-V-A, Bruno,
B-R-U-N-O.

I have a question because I live right
next door on 3 Maurice Lane and we have a very
bad water situation. In our house we have three
sump pumps. I heard from the builder that he's
going to actually put -- raise the ground and
bring in some dirt. My concern is if he's going
to raise the ground, what's going to happen to
us? Are we going to be below? What's going to
happen with all the water? What's the situation?
I mean it's pretty bad right now. What's going
to happen after that?

CHAIRMAN EWASUTYN: Larry, are you
prepared to answer that question?

MR. MARSHALL: Yes, I am. The two
proposed houses on the lot will require a modest
amount of fill to raise the levels. The
intention of the two houses, as the builder has
indicated to myself, is to not have basements in
them. They would be bilevels with no basement.
We do not intend to change any of the drainage as

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it currently flows on the site.

What we are doing is just raising the house sites to allow the sewage disposal systems to be entered by gravity. Essentially we would be raising the house levels to approximately even with your home as it is now. The houses are in the back of the lot. As you know, it falls off.

MS. TOKAROVA-BRUNO: Which one -- can I see it?

CHAIRMAN EWASUTYN: Come up. Sure.

MR. MARSHALL: This is your home here.

MS. TOKAROVA-BRUNO: Right.

MR. MARSHALL: The two homes are in the back.

MS. TOKAROVA-BRUNO: Okay. My concern is really there is really no drainage. We have no drainage, only what we have in the house, which is we have the B-Dry and we have three sump pumps. If you start digging and moving dirt around and raising the ground, I mean we're going to get more water, we're going to get flooded. We do have a basement and we can't really change that.

MR. MARSHALL: The intention of these

1
2 lots is not to change any of the existing water
3 that sheds off of this site. All the drainage
4 from this site currently drains to the westerly
5 portion of the lots and drains down into the
6 existing culvert that crosses Gardnertown Road.
7 We are actually below your lot in elevation.

8 MS. TOKAROVA-BRUNO: Okay. Because the
9 person who owned the property before you bought
10 it, he dumped a lot of dirt right where the
11 drainage is. Like right in the corner right
12 there. Where our sump pump is going out, our
13 water just sits there.

14 MR. MARSHALL: This corner here?

15 MS. TOKAROVA-BRUNO: Right there. So
16 there was drainage going this way and he dumped
17 all kinds of stuff, so the water just doesn't
18 have no place to go. If we can figure something
19 out with that and we have some drainage, that
20 would be really helpful.

21 MR. MARSHALL: Notes have been placed
22 on the plan to indicate that this -- the existing
23 drainage not be interrupted and be continued, as
24 well as the existing culvert along Gardnertown
25 Road is to be cleaned out --

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MS. TOKAROVA-BRUNO: Okay. Okay.

MR. MARSHALL: -- to improve the drainage that's along this section here.

MR. HINES: At a previous Planning Board meeting some of the Board Members did note there's some ponding along Gardnertown Road in the lot 1 area, and we asked Mr. Marshall to go out and evaluate that culvert. He's provided the Board with photos of that culvert showing some debris blocking that culvert --

MS. TOKAROVA-BRUNO: Right. Right.

MR. HINES: -- and a note has been added to the map that this applicant will have to clean out that culvert on both sides of Gardnertown Road to help the drainage there also.

MS. TOKAROVA-BRUNO: Right. A lot of stuff has been dumped in that corner. And both -- right here in this one and this one, too, where all the drainage is. That one, too --

MR. MARSHALL: The intention of this is with the new homes going in you will certainly be -- he will not be impeding any of the water that drains down here. If anything, he will be improving it. Nobody wants to buy a house with

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poor drainage.

MS. TOKAROVA-BRUNO: Right. Right.
That's my -- I mean I don't really -- that's my
biggest concern, the water, because we do have --
all right. Thank you very much.

MR. MARSHALL: You're welcome.

CHAIRMAN EWASUTYN: Additional comments
from the public?

(No response.)

CHAIRMAN EWASUTYN: Janette, thank you.

At this point, there being no
additional comments from the public, I'll turn to
our consultants for their reviews and comments.

Jerry Canfield, --

MR. CANFIELD: I have nothing to add.

CHAIRMAN EWASUTYN: -- Code compliance?
Pat Hines?

MR. HINES: -- our first comment has to
do with the site drainage and what I just
explained. The culvert under Garndertown Road
from lot 1, some previous discussions identified
some ponding in the area of that culvert. The
applicant's engineer has evaluated that culvert,
provided us with photos and added notes to the

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2 map. The existing drainage on the site is not
3 going to be altered, and also that the
4 eighteen-inch culvert under Gardnertown Road
5 shall be clear of all debris to allow for proper
6 drainage. There's leaves, sticks and it looks
7 like the outlet hasn't been maintained for
8 several years. With that cleaned out, that should
9 alleviate the ponding on lot 1.

10 The grades are significantly lower at
11 that culvert so there is positive drainage off
12 those lots.

13 We requested that the applicant revise
14 the location of the water main. It was
15 previously shown connecting to the Gardnertown
16 Road water line which would have caused some
17 traffic control issues during construction.
18 That's been revised to tie into the water main on
19 Maurice Drive.

20 We also reviewed the original
21 subdivision map dated 1953 because this lot, at
22 one point, was identified as a reserve lot.
23 There are no notes on that map, or restrictions.
24 It just looks like there was no percolation
25 testing or a well provided at that time.

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These plans do show adequate potable water and septic systems on the site.

So they've addressed our previous comments.

CHAIRMAN EWASUTYN: Thank you.

Bryant Cocks, Planning Consultant?

MR. COCKS: I have nothing further on the subdivision plan at this time.

CHAIRMAN EWASUTYN: Thank you.
Comments from the Board Members.

MR. GALLI: No additional. They addressed the water problem.

MR. MENNERICH: I have no other questions.

MR. PROFACI: Nothing additional.

MR. FOGARTY: I have one question.
With the cleaning out of that culvert on Gardnertown Road, should that help with the drainage that this young lady --

MR. MARSHALL: Regarding her basement seems to be flooding. In all likelihood the cleaning out of this will have little to do with a flooding of a basement, but it will certainly allow -- repairing of this drainage area here

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will certainly allow her sump pumps to drain properly.

MR. FOGARTY: Is that part of the plan, you will take a look at the drainage in the back of those two lots?

MR. MARSHALL: The intention is to maintain the existing drainage here.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Before I move for a motion to close the public hearing, is there anyone here this evening who has any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to close the public hearing on the two-lot subdivision for Gardnertown Road and Maurice Drive.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Tom Fogarty. Would there be any discussion of the motion?

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(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point I'll turn to our Planning Board Attorney, Mike Donnelly, to give us conditions of approval that will be stated in a resolution.

MR. DONNELLY: Yes. The resolution will be both preliminary and conditional final subdivision approval.

I believe from my notes that the highway superintendent will need to approve the driveway locations, so we'll include a condition to that effect. There is an existing encroachment shown on the plans that is private in nature. We'll include a condition which simply recites that this approval shall not

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constitute an approval of that encroachment.

Pat, I believe this needs a water main extension security and inspection fee.

MR. HINES: No. It's only laterals.

MR. DONNELLY: Okay. The only other condition is the requirement of the payment of fee in lieu of parklands. There are two lots, that fee is \$4,000.

CHAIRMAN EWASUTYN: Having heard the conditions of approval for the two-lot subdivision for Gardnertown Road and Maurice Drive presented by our Planning Board Attorney Mike Donnelly, I'll move for a motion to grant that approval.

MR. MENNERICH: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by John Ward, was that?

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll ask for a roll

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GARDNERTOWN ROAD & MAURICE DRIVE

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call vote then starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

Let the record show that the motion for
approval was made for Gardnertown Road and
Maurice Drive.

MR. MARSHALL: Thank you.

(Time noted: 7:13 p.m.)

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

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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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23 DATED: November 30, 2010
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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

M&T BANK
(2010-23)

Route 9W and Chestnut Lane
Section 79; Block 3; Lot 20
R-1/O Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 4, 2010
Time: 7:14 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DAVID CLOUSER

----- X

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

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M&T BANK

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MR. PROFACI: The next item on tonight's agenda is M&T Bank on Route 9W and Chestnut Lane, Section 79; Block 3; Lot 20 in the R-1/Office Overlay Zone. It's a conceptual site plan being represented by David Clouser & Associates.

MR. CLOUSER: Good evening. My name is David Clouser and I'm pleased to be able to present the conceptual bank project for M&T. We have here also with us Sam Liebman who is one of project architects, and also Terry Eldred that's representing M&T Bank.

I characterize this as a building replacement project. It's located, as the Board knows, with Chestnut Lane on the north, Route 9W. This is the white brick structure that everybody is familiar with there. It's located on 2.6 acres.

The new bank building is slightly smaller than the existing building by about 300 square feet. We also have -- while the construction is being undertaken, we have a temporary banking facility that will be located in this area. We expect the construction to take

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approximately ninety days.

Our plan -- conceptual plan shows the access and circulation for that.

There are some site improvements, primarily to make sure that we're -- this is -- this was built back in the '60s. We're trying to make sure that this is built as an update to the present code. As an example, this driveway is being widened. We also found that in the '60s they had paved over the DOT right-of-way lines. We're moving the parking back beyond that line.

This is a significant project for M&T Bank. The building is in the process of being designed. You will be seeing elevations and much more detail of the bank as that develops.

The bank is going to have several energy conservation measures included. In fact, it's going to be lead certified. We're going for silver lead certification on the bank.

We have received comments from your consultants in the past few days. We've looked those over.

We wish to get input from the Board at this point. I know this is the first time that

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2 it's been presented at a meeting. We'd like to
3 just get your input and also hear any other
4 comments the consultants might have.

5 CHAIRMAN EWASUTYN: Thank you.

6 MR. CLOUSER: Andy Willingham is an
7 associate engineer with the firm. He'll be the
8 project manager. He knows more details about
9 this project than I do.

10 CHAIRMAN EWASUTYN: Okay. Would you be
11 kind enough to share some of the details that you
12 know of with the Board? I mean that in all
13 sincerity. We'll take advantage of that. That's
14 the purpose of the meeting, to hear your
15 thoughts, your concepts on the plan in reference
16 to our consultants' thoughts and concepts.

17 MR. WILLINGHAM: Really the plan is to
18 essentially replace nearly everything on the
19 site. It's going to be a brand new parking lot.

20 There's no landscaping shown now but
21 there's going to be a landscaping plan.
22 Virtually all of the existing trees will remain.
23 There's some large mature trees on this side. We
24 may need to take out just a couple of small crab
25 apples over on this side. Essentially all the

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vegetation is going to remain, which is pretty mature since it's been around since the '60s.

New lighting, new signage. Essentially it's going to be, you know, a new site with actually less impervious surface than the previous site.

Really we feel like it's an upgrade to what's there now. We'd just like to get some big picture comments at this time and move forward to some detailed plans and really look at the details of the project.

CHAIRMAN EWASUTYN: Thank you.

Jerry Canfield, Code Compliance?

MR. CANFIELD: We had discussed at the work session qualifying this project as far as zoning. What is it? This project is located in what's known as an R-1, which is a residential 1, slash Overlay District. Although when the bank was created back in the '60s, I can't tell you what that zone was. I believe somewhere around 1998 the zone change took place. So now we're faced with qualifying this project as to what is it. In the R-1/Overlay District what is permitted is office professional use. That is

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2 not the same as a bank. So we have an issue
3 where it appears to be an existing nonconforming
4 use which now, if it's to be a bank, the overlay
5 district does not permit banks in the overlay
6 district, which makes this a candidate for the
7 Zoning Board.

8 We had also talked about parking, and I
9 believe the rest of the consultants will get into
10 that.

11 We also struggled with, like I said,
12 qualifying this project, whether it is a bank,
13 office, professional service type occupancy. If
14 that's the case, there's a section of the code,
15 185-32 of the Zoning Code, which has limitations,
16 which also is parking in the front of the
17 building. You may want to familiarize yourself
18 with that section of the code.

19 I believe it is our recommendation to
20 the Board that this is a candidate for the Zoning
21 Board.

22 Mike, if you want to elaborate.

23 MR. DONNELLY: Let me just follow up
24 on that. As Jerry said, you're in the R-1/O
25 Zone. This appears to be a protected -- legally

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M&T BANK 25

protected, nonconforming use because banks are no longer permitted in this area. However, that protection is lost upon certain trigger events. It seems like the two prime trigger events are not implicated here because the building is not being made larger, indeed it's being made smaller, and it's not being relocated on the lot to a different position. However, there are, and I haven't gone down the list carefully before the meeting, to memory at least, several others, like whether there was any outward appearance of expansion. It seems that you have a more ambitious roadway and parking lot system. I'm not saying those events cause the loss of the trigger, but Jerry is pointing out that it may well be close enough that the Zoning Board should make the determination as to whether that protection is lost.

Or, on the other side of the coin, if the Zoning Board determines that this use fits in the zone within that professional office use, and again I'm not saying that it does, then you wouldn't need any declaration of nonconforming use, and you'd be controlled by the bulk table

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for this use. Indeed that is a bulk table you have shown on your site plan as the requirements that you are meeting in your proposal.

There's one difference between those two approaches, and that is although the design guidelines require or prefer the parking to be in the rear yard, under the professional office use in the R-1/O Zone, parking is prohibited in the front yard. So if we went down the second fork, you'd also need a variance from that requirement, whereas if it were a protected nonconforming use, the Planning Board would have the authority to waive the design guideline upon the determination that there were appropriate reasons why the parking could not be located in the rear yard as required. It's an issue that probably should be resolved simultaneously with your continuing to design the project. I'd be happy to write a letter to the Zoning Board that would follow with your position and application. Technically it should come from an appeal from the Code Compliance Department, but I'm sure that letter can be taken care of as well. So I can write that letter and you can take it from there.

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2 MR. CLOUSER: I'm curious. Are we
3 talking about an interpretation on the non-
4 conformance with the zone from the Zoning Board?
5 It's certainly not a use variance.

6 MR. DONNELLY: I'm not suggesting that.
7 It's just the fact bound determination as to
8 whether the protection that's lost is one that's
9 better made by a zoning board than a planning
10 board. You would have the alternative argument
11 it fits within another allowable use in any
12 event. I think to get there, realistically you
13 need to get a letter from the Code Compliance
14 Department that says they either determine that
15 the protection has been lost or that there are
16 doubts about whether the protection continues,
17 and then you can clarify that with the Zoning
18 Board. It's just something I think should be
19 clarified earlier rather than later.

20 CHAIRMAN EWASUTYN: Jerry, are you
21 complete?

22 MR. CANFIELD: We had one other issue,
23 as far as I'm concerned, with the use of the
24 temporary trailer. We have permitted this type
25 of scenario in the past. The Planning Board has

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2 adopted somewhat restrictions and some
3 controlling measures as to the amount of time the
4 temporary trailer will be there, time constraints
5 as far as completion, and they will be hinged to
6 the C of O. At the point in time when that
7 comes, they will probably be listed in some of
8 the conditions or restrictions. That's our
9 recommendation. Like I said, we have handled
10 another situation like this and the temporary
11 trailer was permitted but there were restrictions
12 put there. I should just bring that to your
13 attention.

14 One other item that is in the Town of
15 Newburgh is we have a more restrictive sprinkler
16 law than the New York State Fire Code which
17 requires all commercial buildings to be
18 sprinklered with the exception of 2,500 square
19 feet and less for offices, which this is over
20 that threshold. So the point being this building
21 will be required to be sprinklered.

22 That's all I have at this time.

23 CHAIRMAN EWASUTYN: Pat Hines, Drainage
24 Consultant?

25 MR. HINES: Our first comment had to do

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2 with the temporary trailer which Jerry just
3 discussed. Along with that, if the temporary
4 trailer is permitted through an agreement with
5 the Town Board, the way that's been handled in
6 the past, water and sewer service for that will
7 have to be shown, how that's going to work while
8 that's there.

9 We don't have a lot of site development
10 details because of it being a concept plan.
11 We'll get those in the future.

12 We're looking for some information on
13 the existing septic system. I noted it's a 1960
14 era septic system. If you can get any details on
15 that and how that's going to comply with the
16 current standards for this building.

17 The DOT for the access drive. I know
18 Ken Wersted will hit on that.

19 Also the highway superintendent's
20 comments for the multiple accesses on Chestnut
21 Lane. They were discussing that at great length
22 at the work session. I'll defer to Ken Wersted
23 for those.

24 That's what we have on the concept
25 plan. Again, we'll have more comments when we

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get some engineering details.

CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant?

MR. COCKS: I had a couple of the same
comments as was just discussed by Mike and Jerry,
so I'll skip over those.

In the back of the site you're going to
need to show the required sixty-foot vegetative
buffer per Section 185-21 of the Zoning Law. I
think you have ninety-five feet anyway but you
just need to show the line.

Is the DOT right-of-way right up
against the property line? All that green space,
is that in the DOT right-of-way?

MR. WILLINGHAM: Yes. The parking used
to come past. Now we're putting it just on the
other side.

MR. COCKS: Okay. As was mentioned in
the design guidelines, we recommend putting the
parking in back. I'll skip over that.

The applicant should work with the Town
Highway Department during construction just
because Chestnut Lane, those two entrances are
going to be used for construction entrances so we

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need to just realize how we're going to put signage up or some type of gate so customers can access that portion of the site.

In front of the building, in front of the canopy, are those planters, like the high ones that come up to about your waist? Are those those type of planters, like the brick ones?

MR. WILLINGHAM: They're planters.

UNIDENTIFIED SPEAKER: We haven't decided yet.

MR. COCKS: You haven't decided?

UNIDENTIFIED SPEAKER: We have not retained a landscape architect yet.

MR. COCKS: That's fine. The rear parking spaces, are those going to be for employees only?

MR. CLOUSER: Yes.

MR. COCKS: I was just wondering, the rear entrance is right next to the trash enclosure. Is there any way that you can move that over somewhat so that's not directly next to the rear entrance?

MR. CLOUSER: Move the trash enclosure over this way?

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MR. COCKS: So it's not on top of the rear entrance.

MR. WILLINGHAM: Okay.

MR. COCKS: Is there going to be any pathway leading up to the temporary trailer while that's in use?

MR. WILLINGHAM: Yeah, there will be. We didn't show that yet. That will be shown on the plans.

MR. COCKS: And just with the full submission, just take a look at the signage on the site and what's going to have to be installed for the temporary trailer for circulation around.

That was all.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: The large amounts of green space throughout the site help with the appearance of the street scape.

One thing we were discussing during work session is some of the other projects along the 9W corridor included a stonewall to help hide the parking. I don't know if that's a possibility here but -- and it doesn't have to be

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a single stonewall, it can be broken up with planting. If you can, you know, if it's possible, just to look at it and see what you think.

One of the questions I have is that there's brick work in front of the building. What is that? There's a large area of brick pavement it looks like, or it has a brick symbol on the drawing.

MR. WILLINGHAM: Yeah. It's preliminary but I think -- I think the intent is pavers in that spot.

MS. ARENT: So you could possibly move the parking up -- I don't know -- to provide space within the property line for adequate screening of parking?

MR. WILLINGHAM: Yeah. That would be possible.

MS. ARENT: I have another -- a couple questions. The canopy that you're showing on the building, is that for lead certification to the western --

MR. ELDRED: Yes.

MS. ARENT: And the bicycle racks, is

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that also another lead point?

MR. ELDRED: Yes.

MS. ARENT: Do the bicycle racks have to be right in front of the building or can they be moved?

MR. ELDRED: There's a certain distance from the exit, so -- or entrance. We'll have to check.

MS. ARENT: And just to make sure you develop a tree protection plan along with notes to make sure you keep construction out of the tree protected areas.

And just include the sign details on here.

Thank you.

MR. HINES: I think the idea is to eliminate the paver area and provide some distance between the road right-of-way and the parking lot so that the stonewall or landscape features can be placed there.

MS. ARENT: If it's possible. If it works with the drawing. Or even if the road kind of curves.

MR. LIEBMAN: If the parking remains in

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the front, that will be a good way, I believe, of
handling it.

MS. ARENT: Are you the architect?

MR. LIEBMAN: Yes.

THE REPORTER: Can I have your name,
please?

MR. LIBMAN: Sam Liebman,
L-I-E-B-M-A-N. I'm with the firm of Liebman,
Alfandre, A-L-F-A-N-D-R-E, Architects & Planners.

CHAIRMAN EWASUTYN: Ken Wersted, our
Traffic Consultant, will speak to you now.

For the record, we have received
comments from Jim Osborne and Darrell Benedict
about their concern with the access drive on
Chestnut Lane. That's an area of concern with
the Town.

Ken Wersted, if you would begin
speaking for us, please.

MR. WERSTED: Sure. I had a couple of
comments and questions about the use of the
temporary trailer, how traffic will circulate
with that. You received the comments so I'm sure
you can read those and provide explanation on
them. The only other comment we had was in

1
2 regards to the front access aisle where the
3 entrance comes out on Chestnut Lane. The traffic
4 signal on Route 9W and Chestnut Lane will often
5 obviously give the priority to traffic on Route
6 9W. Traffic coming down Chestnut Lane from the
7 west to the east will often backup past that
8 first entrance. For vehicles to pull out of that
9 front entrance, they obviously have to wait on
10 site, which isn't a significant issue, however
11 any drivers who are coming up either from 9W or
12 from the opposite side of Chestnut Lane trying to
13 turn left into there will often backup traffic
14 into and across Route 9W. So really that's where
15 our safety concern comes in to play in terms of
16 having that or maintaining that access so close
17 to Route 9W. We would prefer to see that access
18 either be closed or some type of restriction be
19 placed on that to prevent that occurrence. If
20 that were to occur, the left-turn vehicles from
21 Chestnut Lane coming from Route 9W could
22 certainly use the back entrance and circulate
23 around to the front of the building.

24 That was primarily our major traffic
25 concern. I think that was also expressed by Jim

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Osborne, and some of the other Planning Board Members I think have also experienced that similar situation in that area.

MR. WILLINGHAM: I think M&T would strongly -- they would definitely be open to preventing left turns coming in this way. Closing off the entrance is not preferable to them just because it's such a key entrance for customers. Certainly to stop people from making this left and that backup would definitely be something --

CHAIRMAN EWASUTYN: I'd like to make a suggestion to the Board that we set up a meeting between Ken Wersted, Jim Osborne, Darrell Benedict and the applicant to discuss the access points on the Town road, that being Chestnut Lane.

MR. PROFACI: That makes sense.

CHAIRMAN EWASUTYN: Then I'll poll the Board Members.

MR. GALLI: Yes.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.

MR. FOGARTY: Yes.

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MR. WARD: Yes.

CHAIRMAN EWASUTYN: Okay. If you would make it a point of scheduling that and arranging that and cc'ing us on the time and date, we'd appreciate that.

MR. WERSTED: Will do.

CHAIRMAN EWASUTYN: At this point, comments from Board Members. Frank Galli?

MR. GALLI: Just on the trailer, I know it has a well and septic on the property, I think. How are you going to hook up the trailer? I see the septic is in the back of the existing building now.

MR. LIEBMAN: It's going to be a -- it's not going to be a permanent system, it's going to be a temporary system that -- these bank trailers are actually designed so that --

MR. GALLI: The bathroom is enclosed?

MR. LIEBMAN: -- they've got them enclosed within the structure, and they have to be emptied daily.

MR. GALLI: That answers that.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Could you explain how

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the canopy -- why that's required for the environmental issues?

MR. LIEBMAN: It has to do with the direction of the sun. Inviting sun in at certain times of the year is beneficial. During the summer months you don't want to allow the sun to come in through the windows -- the sunlight to come in through the windows. There are specific requirements with regard to the angles and everything else that will help.

MR. MENNERICH: Is it a permanent type awning or --

MR. LIEBMAN: It's permanent.

MR. MENNERICH: -- retractable? It's permanent?

MR. LIEBMAN: Yup.

MR. MENNERICH: Thank you.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have no questions at this time.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I had concerns, and you can hear this a million times about the entrances and exits off of Chestnut Lane. I live in that

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area. I've seen the backup, especially if you're coming south on 9W and you take that right. If you're going too fast and there happens to be a couple people waiting to take that left and go into the parking lot, it can be tough, all right. So that's why I would be in favor. If you're going to keep that lower area, then just make that right-turn only or something, you know. And then have the people who are going to enter the facility off of Chestnut Lane be able to go to the upper and take a left. I think part of it is going to clean out some of that brush. Even that's a tough turn into there too because you're coming over the hill and taking a little right-hand turn there. So it's a dangerous spot no matter how you get around it.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: By the top entrance, like Tom just said, there's a blind spot in that curve there. If that can be widened or whatever with your property, just for clarity.

We were talking about the wall in the front, designing like the corridor along 9W with stonewalls and keeping the character together ,

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so --

MR. LIEBMAN: How high does that wall go?

MS. ARENT: It can be thirty inches.

MR. LIEBMAN: Thirty inches. Okay.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Okay. At this point I'll turn to Mike Donnelly again to ask the applicant if they would like a referral letter to the Zoning Board of Appeals.

Mike.

MR. DONNELLY: Two things and I think we'll clarify. We need to type this action under SEQRA. As we discussed, the building is under 4,000 square feet. I know there will be a temporary trailer but I don't know if that needs to be included in that square footage. It appears that we can characterize this as a Type II action. That would allow the Zoning Board to work on this right away because by default it might not have been a Type II action while it was before them. While we can write a letter to the Zoning Board, we can't truly refer it. There has to be an appeal. I'll copy Jerry's office on the

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letter and they'll need to issue a letter from which you can appeal. The letter doesn't have to deny the use, it has to question. The language really is that the use cannot have any external evidence of an increase in use by any means whatsoever. And although your building is smaller, the overall site elements appear to arguably be something like that. That needs to be clarified. I'll write the letter. You'll need to work with Jerry to get a denial letter in quotes of sorts and then apply to the Zoning Board for that clarification.

CHAIRMAN EWASUTYN: Terry, anything else this evening?

MR. WILLINGHAM: Andy.

CHAIRMAN EWASUTYN: Andy.

MR. WILLINGHAM: No. I think that was it. That was helpful. Thank you.

MR. MENNERICH: I was just wondering if we have to back down the conceptual plan to declare it a Type II action.

MR. DONNELLY: I don't know that you need to declare it a Type II. I think it really is by the application. If you wish to discuss

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whether you can grant conceptual approval --

CHAIRMAN EWASUTYN: Would the Board like to act now on conceptual approval?

MR. GALLI: One way or the other, if it's not needed.

CHAIRMAN EWASUTYN: Would the Board like to circulate to the Orange County Planning Department at this time?

MR. GALLI: We can get that.

MR. DONNELLY: Yeah.

CHAIRMAN EWASUTYN: Then I'll move for a motion to circulate the plans before us to the Orange County Planning Department.

MR. GALLI: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

If you would make it a point of getting plans to Bryant Cocks and he'll circulate to the Orange County Planning Department.

(Time noted: 7:40 p.m.)

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

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

DATED: November 30, 2010

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

----- X

In the Matter of

HOLIDAY INN ROUTE 17K
(2004-21)

Route 17K
Section 95; Block 1; Lot 16
IB Zone

----- X

SITE PLAN, TWO-LOT SUBDIVISION
and ARCHITECTURAL REVIEW BOARD

Date: November 4, 2010
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANDREW FEATHERSTON &
DOMINIC CORDISCO

----- X

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

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2 MR. PROFACI: The next item on
3 tonight's agenda is the Holiday Inn on Route
4 17K, Section 95; Block 1; Lot 16, located in
5 the IB Zone. It's a site plan, and two-lot
6 subdivision, and ARB. It's represented by
7 Andrew Featherston --

8 MR. FEATHERSTON: Good evening.

9 MR. PROFACI: -- and Dominic Cordisco.

10 MR. CORDISCO: For the record, I'm
11 Dominic Cordisco from Drake, Loeb. With me
12 tonight is Andrew Featherston and AJ Coppola.

13 Just to bring the Board up to speed, as
14 you know we applied for site plan and subdivision
15 approval and received concept plan approval. We
16 were referred to the Zoning Board for two
17 variances. One was in connection with the
18 subdivision for a setback between the two lots
19 and the other in connection with the signage for
20 the new Holiday Inn. We appeared before the
21 Zoning Board of Appeals, and over the course of
22 several meetings we actually reduced the amount
23 of signage that we had originally proposed,
24 including, most notably, eliminating an existing
25 billboard that's on the current Nights Inn site.

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2 As part of the application and part of the Zoning
3 Board approval, we had agreed to eliminate that
4 billboard which actually reduced the amount of
5 signage variance that we needed significantly. I
6 think it was around 1,100 square feet. It was
7 actually a rather large -- it's currently not a
8 used billboard. It has a sign on it but the
9 structure exists. We had agreed to take that
10 down. In discussions with the Zoning Board we
11 also agreed to modify and combine some signs.
12 The current plans that you have before you should
13 reflect the fact that the signs have been reduced
14 and are the versions that have been approved by
15 the Zoning Board.

16 That was actually several months ago.
17 We would have been back sooner but the Zoning
18 Board's decision was challenged in court. It
19 turns out that it was challenged primarily by a
20 competitor, the owner of the Comfort Inn which is
21 down by the Gateway Diner across from the
22 intersection that we're at.

23 MR. FEATHERSTON: The Hampton Inn.

24 MR. CORDISCO: I'm sorry. Hampton Inn.
25 That lawsuit was dismissed. So we've gone ahead

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and finished our work. There was only one comment at the Zoning Board public hearing, and so it turns out the comment was from the competitor.

In any event, we are now back and either AJ or Andrew can give you a brief overview of the revised plans, and then we'd like to address any comments or questions that you have.

MR. COPPOLA: Should I start with the architecture or the site?

CHAIRMAN EWASUTYN: You're a pleasant sight. We'll start with you.

MR. COPPOLA: I'll take that. Thank you.

CHAIRMAN EWASUTYN: It's a pleasure to have you.

MR. COPPOLA: Thank you very much. Just to give a brief overview of what we're doing on the building, this is a full-service hotel. It's not a Holiday Inn Express but a full-service Holiday Inn. It's four stories. It's 140 rooms.

The first floor is basically all services, so there would be a full restaurant, lounge area, indoor pool, gift shop, bar area,

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2 and that would be -- and then a full-service
3 conference facility capable of holding up to 300
4 people. So that would all be contained in the
5 first floor. So you have the restaurant and
6 full-service conference room operating, you know,
7 possibly independently.

8 And then basically on all of the upper
9 floors would be a standard double-loaded corridor
10 with all of our rooms. That would be basically
11 about 45 rooms per floor, three stories high. I
12 think we're just under the fifty-foot threshold
13 that the site allows. That's basically been
14 unchanged since we started the project.

15 We did include architectural review in
16 our package for this meeting. I guess we'll
17 maybe leave that for the end. Go through it now?

18 CHAIRMAN EWASUTYN: Yes.

19 MR. COPPOLA: What we're basically
20 doing on the exterior is a mixture of a cultured
21 stone base wrapping most of the first floor. A
22 portico share, that's one of Holiday Inn's
23 signature elements. It's this metal, low sloping
24 roof. That's detailed on the rendering and on the
25 elevation drawings. And then basically a two-

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2 tone system for stucco which pretty accurately is
3 shown here. We have color samples for the stone
4 and the stucco. The stucco banding is a lighter
5 offset, white to the golden, which represents the
6 body of the building.

7 As Dominic said, we have three building
8 signs on the property. As you look at the site,
9 this building is approachable from all four
10 sides. So we have three building signs on the
11 east and west and on the south facades. So
12 they're all shown and calculated into the signage
13 on the comprehensive signage drawing.

14 So that's it in a nutshell for the
15 building.

16 CHAIRMAN EWASUTYN: Comments from the
17 Board Members?

18 MR. GALLI: No additional.

19 MR. MENNERICH: Is that going to have a
20 flat roof?

21 MR. COPPOLA: It will have a flat roof
22 with a parapet so it will hide anything that's
23 going to be hidden.

24 There's an area around back that's also
25 shown in the drawings. That will be a utility

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area, too. So there will be some things in there, kind of off the back of the building, but that will also be screened.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Are these questions just on ARB?

CHAIRMAN EWASUTYN: For now, please.

MR. PROFACI: I have nothing.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: It does show it's going to be like a 38-foot sign I believe.

MR. COPPOLA: The building mounted sign is -- that's 22 feet, this one here, wide. Basically there's two signage plans. There's one signage plan for the Knights Inn property and then there's a signage plan for the Holiday Inn property.

MR. FOGARTY: That's what I'm thinking of.

MR. COPPOLA: We divided it based on that. There's three building signs but they're all -- they're five foot high by about 22 feet long.

MR. FOGARTY: Okay.

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CHAIRMAN EWASUTYN: John Ward?

MR. WARD: At workshop we discussed the 38-foot sign and your other sign. Is there possibly landscaping or stone around the bottom of it?

MR. COPPOLA: The existing sign, yes.

MR. WARD: The new one, too?

MR. COPPOLA: Right. The existing one on --

MR. WARD: 17K.

MR. COPPOLA: Yes. We'll certainly look at that, the stone and landscaping at the base.

MR. WARD: Yes. And the other sign, too.

MR. COPPOLA: The new sign that's going to be on 300, which is this one here, treating the base?

MR. WARD: This way it doesn't look like a high tower. It's designed and it gives a nicer look than just a sign being so high.

MR. COPPOLA: Sure. We'll definitely look at that and incorporate something.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: AJ, while you have

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samples of the stone work, can you set them on the chairs in the front so we can see them?

MR. COPPOLA: Sure.

CHAIRMAN EWASUTYN: This is the cultured stone you're referring to?

MR. COPPOLA: Yeah. This is the actual --

CHAIRMAN EWASUTYN: Karen, can you see that from there? I think what we're working toward is possibly an ARB approval.

MR. COPPOLA: This is the stone, the shape of the stone, but the coloring is more accurately shown down here. So that's what it is. It's not as gray as this. There's elements of like pink and a little bit of reddish hints in there.

CHAIRMAN EWASUTYN: Karen, any curiosity or comments as far as ARB?

MS. ARENT: As long as that stone is similar to the native stone is what we keep trying to get a theme. So the same -- it looks very close but I don't know --

MR. COPPOLA: We have used this before on other projects. Yes, I think it is.

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2 MS. ARENT: I don't have comments --
3 well, I do have a comment about the landscaping.
4 If you could coordinate with Justin from Maser so
5 that a whole complete landscaping plan can be
6 prepared for the -- to unify the two signs
7 together. He did show a stonewall on the Route
8 300 side, and that would have to be coordinated
9 with where the signs are going. And you're also
10 showing one sign that's not ten feet from the
11 property line, and that's a Zoning Code that I
12 don't think you got a variance for. So that
13 would have to be --

14 MR. COPPOLA: I think you're probably
15 right. I don't think that was included in our
16 variance. We'll take a look at that.

17 MS. ARENT: The only other comment I
18 have is about the marquis type sign. In the past
19 we've asked for non-national brand signs to
20 perhaps be a unifying color or something. I
21 don't know if the Board wants to ask Anthony to
22 figure out a way to make that sign look good
23 after they get a lot of other signs on it. Is
24 there a way -- in the past I know you have
25 specified --

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MR. COPPOLA: You're talking about the existing 17K sign, unifying --

MS. ARENT: With all the little signs.

MR. COPPOLA: Unifying kind of the individual signs --

MS. ARENT: Right.

MR. COPPOLA: -- within that theme? We can take a look at that.

MS. ARENT: If you look at the guidelines. That would help it from being hodge podge, all different colors and --

CHAIRMAN EWASUTYN: At this point we're not approving signage but what we're doing is we're giving you points to begin to work on as far as coordination of those signs at a later time, and you'll be able to submit samples so we can move in that direction.

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

CHAIRMAN EWASUTYN: If the Board feels they're ready, I'll move for a motion to grant ARB approval for the new proposed Holiday Inn located off of Route 17K.

MR. DONNELLY: Can I interrupt you for a moment? I don't think we've issued a

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declaration of significance. We may be in a position to do one, but I think we should take care of that before we give the ARB.

CHAIRMAN EWASUTYN: I don't think we did issue a declaration of significance at this point. So all right. Then I'll hold on that motion and we'll introduce Andrew Featherston -- Thank you, AJ, for your presentation.

MR. COPPOLA: Thank you.

CHAIRMAN EWASUTYN: -- to discuss the engineering and site plan related issues, at which point then we'll defer to Pat Hines, our Drainage Consultant.

MR. FEATHERSTON: Good evening, Mr. Chairman. There are a couple of Board Members that were not on the Board when we first came for conceptual. Would you like me to take you through --

CHAIRMAN EWASUTYN: Please. Thank you.

MR. FEATHERSTON: The site in total is one complete lot. There's a second lot down here with a home on it. That's going to be demolished. We had that on our plans and we

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2 acknowledge to get a demolition permit for that.

3 What we're proposing is a subdivision
4 of this property to facilitate two separate lots,
5 a hotel on each lot. The site is about
6 twelve-and-a-half acres. The one lot is going to
7 be just over five acres, the other lot will be
8 just over seven acres. Our frontage is, as
9 you're aware, 17K, Route 300, blue glass
10 building, has an access out to the existing
11 driveway. We have the new four-way traffic light
12 controlled intersection here where I ate dinner
13 this evening over at Chili's. Denny's, a couple
14 of other hotels up to the rear.

15 We're in the IB Zoning District.

16 As was stated, we did go to the Zoning
17 Board and get the variance for -- a side yard
18 variance right here where -- it had to be fifty
19 feet. We're about forty-two feet to the existing
20 building. Also, for the amount of square feet on
21 the signage is what we got a variance from. So
22 we'll look at what Karen was speaking about.

23 We actually were going to -- I just
24 want to talk on the billboards. There were two
25 very large billboards, one at this location, at

1
2 the rear of the existing Knights Inn, and then
3 there was another one kind of tucked into the
4 woods here. Those are both being eliminated.
5 Very large, `60s and `70s era billboards to be
6 removed.

7 As AJ said, 140 room Holiday Inn. I
8 won't go into the building.

9 We spoke about the variance.

10 We're in the Town's water and sewer
11 districts. Correspondence has been forwarded
12 from Jim Osborne to the City of Newburgh for the
13 sewer.

14 We have been in touch with Winona Lake
15 Fire. We have not heard back from them so we'll
16 have to pursue them for their comments.

17 Some of the consultants' comments were
18 get in touch with DOT. We certainly need to do
19 that. Also to the Thruway because the Thruway
20 did, along with their ramp work and all their
21 extensive toll work here, they actually reshaped
22 the shoulder at this location, put some drainage
23 stone down where this has been draining, always
24 has been draining. We'll talk to them about what
25 we're doing here for stormwater, to mitigate any

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increase in stormwater.

We prepared -- let me see. We're proposing to widen this entire lane here to a twenty-six foot total, but four of that we were proposing to paint and install those reflectors into the pavement. I had an example. Install the reflectors into the pavement as opposed to building nine hundred feet of sidewalk. The sidewalk would dead end here across the street. It's a constriction. There's a guide rail right there. There's really no good place for a pedestrian to walk, and there are no facilities on the traffic control signals for pedestrians at this time. What we were trying to do was provide a twenty-six foot wide aisle and have two eleven-foot wide lanes, more than enough for any large vehicle, cars, but it would also facilitate a four-foot painted strip, reflectorized, that somebody could safely walk down if they wanted to.

We were proposing to land bank 46 of our parking spaces below what is required by the Town. Our traffic consultant, Phil Greely, provided some information, I know, to the

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2 consultants and for the Board's consideration.
3 We're thinking that there's a lot of combined
4 uses. When you are staying at the hotel, you may
5 be attending a conference and you may be in the
6 restaurant. When you are attending a conference,
7 you may eat there as well. There's a lot of uses
8 that are combined where we don't believe that you
9 need a space for every room, every seat in the
10 restaurant and every seat in the conference hall
11 because we think that people are using combined
12 uses when they're there, thereby not
13 necessitating that full parking requirement from
14 the Town.

15 Stormwater is being handled subsurface.
16 We had some soil testing. We're going to do some
17 additional testing as Pat had indicated he was
18 looking for.

19 Connections to the water and sewer
20 coming from 17K.

21 I think that's about it.

22 MR. CORDISCO: On the issue of the land
23 banked parking, we received, obviously, copies of
24 the Board's consultants' comments, and we thank
25 them for that. Pat had raised a question as to

1 what would be the trigger for having actually the
2 -- having to build that parking. As the Board
3 may or may not know, I'm counsel for the Town of
4 Cornwall Planning Board and we recently had the
5 Cornwall Hospital before us for an amended site
6 plan. They were proposing some reserved parking
7 and the same question came up. So what I was
8 going to offer as a suggestion is what that board
9 ended up imposing was a requirement to return to
10 the planning board within a period of time, in
11 that case it was deemed to be two years after
12 construction of their building, so that they
13 could come back and report as to whether or not
14 the parking that they had built was sufficient.
15 If it was sufficient, then they wouldn't need to
16 build more parking, or they could require them to
17 come back later to continue to review it. In any
18 event, I suggest that that's one way to possibly
19 address the concern. We required them to place
20 that as a note on the plans so it would be
21 enforceable by the town. So I guess to sum up my
22 suggestion would be to require you to come back
23 -- require the applicant to come back within a
24 period of time after construction. It should be
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2 a sufficient period of time after everything is
3 up and running so that you have a good sense of
4 what the long-term usage is through a number of
5 different seasons, and that way you can require
6 -- you can condition your approval on that and
7 require the construction of the additional
8 parking if it's needed at that time.

9 CHAIRMAN EWASUTYN: What's the
10 mechanism for triggering that two-year period?
11 Why I say that to you is notes on plans are very
12 difficult to monitor. Who is going to monitor
13 that that two years is up, that three years is
14 up? I can't imagine Code Compliance doing it. I
15 can't imagine the Planning Board doing it. How
16 does someone know the time is now?

17 MR. CORDISCO: That's a good question.
18 In terms of what the trigger would be, I think it
19 would be two years is the acceptable time. I
20 think it would be two years from certificate of
21 occupancy. It's possible that you could issue a
22 conditioned certificate of occupancy requiring
23 that as well to have a belt with suspenders
24 approach. Not to be flippant about it, but I
25 could certainly calendar it and that way I could

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remind my client and be able to get paid for coming back and being before the Board. But it's a fair question.

CHAIRMAN EWASUTYN: How did you police it or how will you police it in Cornwall? That's my question.

MR. CORDISCO: In Cornwall, as I said, we did require it as a note on the plan. Cornwall might be a little more sleepier perhaps in the sense of not having as many commercial projects, and so the building inspector in Cornwall would certainly be aware and very mindful of that. I think you have a lot of things going on, so I think it's perhaps a different scenario here in the Town.

CHAIRMAN EWASUTYN: I'm not arguing. Mike, what were you discussing?

MR. DONNELLY: What we have done in the past is, and I'll come back to this piece because I think it's the toughest one, and that is leave imposing the requirement to the sole discretion of the Planning Board. There are other formulas, and we'll come back to that. I don't have a problem with a duration, both when we first look

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2 at it and a date by which, if nothing untoured
3 has happened, the requirement goes away. But
4 within that, John is touching on what is the
5 event. Do we want you to photograph the parking
6 lot at certain intervals, have counts. If it's
7 not the sole discretion of the Planning Board and
8 we're going to make an objective standard, is it
9 hitting 95 percent of the occupancy limits. What
10 we've done in the past is said it's the sole
11 discretion of the Planning Board. You also need
12 to enter into an agreement with the Town Board
13 that allows this, and that gives the Town the
14 additional remedy of a contractual enforcement
15 action as opposed to just a zoning violation.
16 I'll send you the language we've used in the
17 past. The more difficult event is always who is
18 doing the observation and what is unsatisfactory
19 that requires the trigger. The only satisfactory
20 way we've dealt with it is to leave it to our
21 sole discretion, which we hope and you hope won't
22 be arbitrary or capricious. I'll be happy to show
23 you my language, you can show me yours and we'll
24 see if we can find a middle ground.

25 MR. CORDISCO: That would be fine.

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2 Personally I don't have a problem with it being
3 this Board's discretion. I think it's a valid
4 concern as to what we're submitting to you in
5 order for you to evaluate it. If we come in, you
6 know, with a letter from my son that says, you
7 know, there's no need for parking there, I don't
8 think that would be sufficient, but --

9 MR. DONNELLY: Knowing your son's age,
10 I don't think so.

11 CHAIRMAN EWASUTYN: Shoot the
12 messenger. The age of your son, please?

13 MR. CORDISCO: He's eighteen months.

14 CHAIRMAN EWASUTYN: Realizing he has
15 the intelligence of his father and he can write
16 at eighteen months --

17 MR. CORDISCO: He's smarter than I am.

18 MR. DONNELLY: In two years he'll be
19 much older.

20 MR. CORDISCO: In any event, I think we
21 can work out the details, and we're certainly
22 amenable to it.

23 MR. CANFIELD: John, just one question.
24 In addition to that, in the past we've had
25 applicants or owners request the Town or permit

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2 the Town parking enforcement officers to go in.
3 There may be a mechanism to view and monitor the
4 parking condition. Many times they work under the
5 direction of the police department, and they also
6 report to us as far as their findings. That may
7 be an avenue of policing this.

8 MR. CORDISCO: And that could be a
9 condition in terms of the Town Board agreement.
10 You know, to allow parking enforcement to come on
11 site and observe and, you know, perhaps their
12 report would be more valuable. Certainly more
13 than my son's.

14 CHAIRMAN EWASUTYN: Andrew, as we were
15 moving forward with the consideration of the ARB
16 approval presented by AJ Coppola for the Holiday
17 Inn, Mike Donnelly raised a point that we hadn't
18 made a SEQRA determination. With that I'd like
19 to turn to Pat Hines and yourself to discuss some
20 outstanding issues as far as the designing of the
21 drainage on site.

22 Pat.

23 MR. HINES: Many of my comments have
24 been addressed, the demolition notes, the sign
25 off from the City of Newburgh that's outstanding

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and what triggers the land banked parking.

The one that hasn't been addressed is the stormwater management report and the need for additional soils testing. Three of the five soil tests that were performed failed for infiltration design, and there's a statement that additional testing will be provided as a condition of approval. That's not normally how this Board grants approvals, so I think that the report is going to have to be further improved with the additional soil testing for each of the sites. There are, I think, four infiltration systems. Realizing that you're trying to keep up with the new regulations for runoff reduction and use infiltration practices, we need more design information to support the design.

MR. CORDISCO: On that particular point, in terms of a condition of approval, we weren't suggesting as a condition of a final approval, we were looking for as a condition of preliminary approval, knowing that we need to come back.

CHAIRMAN EWASUTYN: Understood. It's still a SEQRA determination that would bring us

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2 to that point. What we're discussing now is we
3 may not have enough information to make a
4 determination.

5 Mike, I believe that's what you're
6 saying.

7 MR. DONNELLY: What we've traditionally
8 done, Dominic, is said if it's just a question of
9 the details of the plan to implement something in
10 the stormwater realm that we know can be done,
11 that's not a SEQRA issue. Here Pat is saying
12 there's a real question as to whether the soils,
13 based upon the current investigation, can indeed
14 handle the underground infiltration that's
15 proposed, so it becomes a SEQRA issue until that
16 piece is resolved. The actual design details can
17 come after.

18 MR. FEATHERSTON: If I may. In our
19 report three of the systems that we proposed did
20 not have good infiltration rates, the one in the
21 front, the one in the rear here and the one at
22 the bottom of the hill. They didn't have a good
23 infiltration rate. In our mathematical model we
24 assumed zero infiltration for those devices. We
25 just allowed an extended detention over

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2 forty-eight hours releasing the flows. So a very
3 slow release of the flow. These three, where the
4 soil rates were poor, we did not assume any
5 infiltration whatsoever. Certainly there will be
6 some. We did not assume any for a factor of
7 safety. This is the main infiltration rate. We
8 got one rate that was 15 minutes, one that was 45
9 minutes. We used 45 as again a factor of safety
10 for that. So this one is classically an
11 infiltration device. The other three showed a
12 poor rate so we did not model it as such. That's
13 why it got quite a bit larger than our prior
14 application. If you overlay one on the other
15 you'll see that each of those three devices got
16 larger to accommodate that flow which we
17 originally thought might go into the ground and
18 now we realize it will not.

19 MR. HINES: Your narrative identifies
20 them all as infiltration systems.

21 MR. FEATHERSTON: Right. Right. We
22 can change the name. Yeah. I mean -- yeah.

23 MR. FEATHERSTON: But the design would
24 be the same.

25 MR. FEATHERSTON: Right. We can work

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out the details.

CHAIRMAN EWASUTYN: I think that's what we're saying, Andrew.

At this point, Michael, the kind of details we need are?

MR. DONNELLY: It's more your comfort level and Pat's as to whether this is an environmental issue or a detail issue. I think it's important, though, because you can't take action on ARB. I don't know that's the end of the world because ARB is not going to be useful until you have a site plan and subdivision.

MR. FEATHERSTON: I could add that we're not required until February to provide that runoff reduction, that additional stormwater volume. We are providing it now in that infiltration device here. So we're going beyond today's code into the end of February's code for stormwater.

The other thing is we did not assume that this area that we hope will remain wooded, that we hope remains as a land banked wooded area, we did not assume that that was woods in the after-development case. We were assuming

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2 that was an impervious parking lot. So we didn't
3 take any shortcuts is what I'm saying.

4 CHAIRMAN EWASUTYN: Pat, can we table
5 this for now, set it for the 18th of November
6 agenda, allowing yourself more time to look at
7 it?

8 MR. HINES: Yeah. I can work with
9 Andrew's office on that.

10 CHAIRMAN EWASUTYN: That might be the
11 appropriate thing to do at this time, rather than
12 sit here and discuss how you can change a name
13 or, you know. As a matter of record, I would
14 feel more comfortable with that, as a matter of
15 record, because of litigation that once was
16 applied to this particular project. To come to a
17 SEQRA determination I think would be in the best
18 interest of all parties, to dot every I and cross
19 every T.

20 MR. CORDISCO: That's prudent. The one
21 thing you might perhaps want to consider tonight,
22 however, is waiving the public hearing. We did
23 have a public hearing, as I said, before the
24 Zoning Board.

25 CHAIRMAN EWASUTYN: On the subdivision?

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MR. CORDISCO: On the subdivision.

CHAIRMAN EWASUTYN: I'll have to refer to Mike Donnelly on that.

MR. DONNELLY: Well the site plan is waivable. You're asking us not to hold a hearing on the subdivision because a hearing was held before the Zoning Board?

MR. CORDISCO: No, no. Actually I'm asking you to waive the public hearing on the site plan. If you need to have a public hearing --

MR. DONNELLY: Since we need to have one on the subdivision, and the public will never understand -- I mean not in an insulting way but naturally would not understand that they're only being invited to give comments on the subdivision but they can't walk about the site plan, I don't know what it does. We're going to have to hold a public hearing anyway, so why not allow the public to speak to all aspects of the proposal.

MR. CORDISCO: Fair enough. Thank you.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to set this for our November 18th Planning Board meeting.

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MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: John, I had one question.

CHAIRMAN EWASUTYN: Okay.

MR. WARD: Going down the sidewalk, I was here and I pushed the issue about the sidewalk because the reflectors, the snowplows are going to knock them down and all. If you have the Holiday Inn plus say the banquet hall and everything else going on, there's going to be volume going up and down the road. Safety wise I think it's smart to put the sidewalk. Whether it goes to nowhere, it's your property and you're protecting your clients, so --

MR. FEATHERSTON: The reflectors, I was looking for them. I have them pinned on there on

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2 the top of my planner. Those are the ones that
3 you'll find on the parkways, on the highway. The
4 plows go right over them. They're used in the
5 northern regions. They're either epoxy, down or
6 some of them are actually drilled in and the plow
7 goes right over the top of them. That's what we
8 were thinking.

9 MR. WARD: I'm thinking cars can't go
10 on top of the curb or sidewalk. God forbid.

11 MR. FEATHERSTON: Right.

12 CHAIRMAN EWASUTYN: That's an issue
13 then to be discussed during the site plan review.

14 At this point I have a motion by Frank
15 Galli I believe. I had a second by Ken
16 Mennerich. I was asking for a roll call vote.
17 We had discussion.

18 MR. GALLI: We got all the way down to
19 John.

20 CHAIRMAN EWASUTYN: And now John Ward.

21 MR. WARD: Okay.

22 CHAIRMAN EWASUTYN: Then the motion is
23 carried. We'll set this for the meeting of
24 November 18th.

25 MR. CORDISCO: I just want to add about

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the site plan public hearing. It was my misunderstanding, I thought that the subdivision public hearing could have been waived as well, given it's only a two-lot subdivision. That was my misunderstanding. I wouldn't have asked to waive one without the other. It is what it is.

MR. DONNELLY: Your son would have understood.

MR. CORDISCO: He would have certainly. He's smarter than I am.

(Time noted: 8:14 p.m.)

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

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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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23 DATED: November 30, 2010
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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

LANDS OF BJs HOLDINGS
(2010-24)

16 Route 17K
Section 97; Block 1; Lot 26
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 4, 2010
Time: 8:14 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTTLE

----- X

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

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2 MR. PROFACI: The next item is the
3 lands of BJs Holding, LLC. It's at 16 Route
4 17K, Section 97; Block 1; Lot 26. It's a
5 conceptual site plan being represented by Ken
6 Lytle.

7 MR. LYTLE: Good evening. Ken Lytle
8 representing Brian Stahl is the owner of BJs
9 Holdings. It's property located on Route 17K,
10 just east of the old Auto Auction. Again, it's
11 in an existing building, approximately 8,400
12 square feet. We'll be putting two small additions
13 off the back.

14 We're planning on utilizing the
15 existing parking areas. Some restriping, some
16 minor modifications to give us some landscape
17 areas, removing the blacktop for more green
18 space.

19 We received the comments from the
20 consultants. There's a lot of concern regarding
21 the forty-foot easement along the eastern edge of
22 our property. We'll get a copy of that and give
23 it over to Mike Donnelly.

24 We've also met with the DOT regarding
25 the two entrances onto 17K. She would like us to

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2 take the easterly most entrance, narrow it down
3 not to exceed thirty feet, so both of them would
4 have the same width, and that would meet with the
5 regulations.

6 There was some concern and questions
7 regarding the backside of the island off 17K, and
8 there's an existing curbing we're proposing to
9 leave there. We can very easily remove that and
10 make it one uniform landscape area.

11 There was also a bunch of questions
12 regarding the proposal of a sidewalk along the
13 front of the building. That is in the DOT
14 right-of-way. We would require their permission
15 to do it. I believe there's no other existing
16 sidewalk along the whole length of 17K. I
17 believe the client would like to discuss that
18 with the consultants if that's -- if you deem
19 that required.

20 If the Board has any additional
21 questions.

22 CHAIRMAN EWASUTYN: Jerry Canfield had
23 said during our work session the owner of a
24 business, which would be east of the subject
25 property, was happy to know that someone had

1
2 purchased the property and was looking to improve
3 it and to eliminate what had been an eyesore on
4 that corridor for many, many years.

5 So at this point I think we'll have an
6 opening comment review as far as the site plan.

7 MR. LYTLE: I would like to actually
8 mention one more item. Upon reviewing actually
9 the consultants' comments, there were some
10 comments regarding the number of retail spaces.
11 After speaking with our clients, they would like
12 notes on the plan regarding reducing that to only
13 three retail spaces maximum. That would be
14 offices or just enlarge the square footage of
15 each of the retail spaces.

16 MR. GALLI: There's going to be three
17 now?

18 MR. LYTLE: Three maximum. I have
19 notes regarding that.

20 CHAIRMAN EWASUTYN: I think the --
21 we'll start with Bryant Cocks, Planning
22 Consultant.

23 MR. COCKS: That was the main issue.
24 When you were showing the five retail spaces, it
25 triggered it being a mini-mall. All the setbacks

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2 have to be greater. If he's only going to put
3 the three retail spaces in, then it would be an
4 individual retail store.

5 It looks like the front yard setback,
6 the one side, both side yard setbacks and maximum
7 building lot coverage, and I think -- maximum
8 coverage would all have to be -- the building lot
9 coverage and the maximum lot coverage would all
10 have to go to the ZBA if it's three stores. That
11 would be an issue they would have to get referred
12 for.

13 While you're going, I just wanted you
14 to review the signage plan. I know there's not
15 much lot width at the road, so I don't know how
16 much signage you guys are planning on putting on
17 between the individual retail signs and the pilon
18 signs. Just take a look at that before you go
19 over there.

20 I mentioned DOT is going to have to
21 approve the two entrance drives.

22 This is going to be sent to Orange
23 County Planning Department and also the City of
24 Newburgh for the sewer connection.

25 In regard to the design guidelines,

1
2 it's recommended that the parking be in the back
3 of the site. There's an existing use. It is
4 going to be restriped and additional landscaping
5 is going to be installed, but the Planning Board
6 would have to discuss a possible waiver of the
7 design guidelines to have the parking in front.

8 The sidewalk, if that could be
9 connected to the back parking lot. It doesn't
10 look like there's going to be any rear entrances.

11 I think that was it as of now.

12 CHAIRMAN EWASUTYN: One more time for
13 the record, the referral to the ZBA would be for?

14 MR. COCKS: Front yard variance, one
15 side, both sides, maximum building coverage and
16 maximum lot coverage.

17 CHAIRMAN EWASUTYN: Maximum lot
18 coverage and maximum building coverage?

19 MR. DONNELLY: Correct.

20 MR. CANFIELD: John, I just had a
21 question. If we're going to do this by a
22 referral to the Zoning Board, shouldn't we have
23 an accurate map or site plan? The applicant --
24 Ken is telling us that you're changing what is
25 proposed before us.

1
2 MR. LYTLE: The only difference is
3 we're going to put a note on here stating that we
4 can't have more than three retail spaces. That's
5 the only change.

6 MR. CANFIELD: We still should have a
7 plan that reflects that because the section that
8 Bryant is citing deals with the number of
9 occupants, the tenants, which makes it a strip
10 mall. If you're going to make it three tenants,
11 it's no longer a strip mall.

12 MR. GALLI: He's going --

13 MR. LYTLE: We could very easily,
14 actually, send a drawing over to Bryant prior to
15 issuing that letter to us to make sure the
16 Planning Board has it current.

17 MR. DONNELLY: I'll put my letters
18 based upon a plan to be amended not to show more
19 than three retail units.

20 MR. CANFIELD: As long as everything
21 coincides.

22 CHAIRMAN EWASUTYN: Makes sense.

23 MR. GALLI: He's going to have five
24 units but only three are going to be retail and
25 two are going to be office.

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MR. LYTTLE: That's right.

MR. DONNELLY: I have a question about how we're going to handle that issue because we've had difficulty in the past with retail space that were based upon parking requirements for what was shown initially and things change over time. I think your map note is a good one, that there not be more than three retail spaces.

Given that partition walls can move, I think we should also say not to exceed X number of square feet in total so that the Building and Code Compliance Department know what the maximum retail space allowed is.

We will also say, I think, in the condition, if I understood our discussion earlier, that the balance will be office space because that is how you're calculating parking, and that no restaurant shall be permitted because that would tip us over the balance.

Therefore, what is the total retail square footage you are agreeing to limit yourself to with three retail units?

MR. LYTTLE: Maximally, if they just convert this into three large retail spaces, it

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would be 8,400 square feet.

MR. DONNELLY: You're talking about making the whole place retail?

MR. LYTLE: If they take it down to three units maximum.

MR. DONNELLY: Does that work?

MR. LYTLE: The parking spaces are based on that.

MR. DONNELLY: I've got it.

CHAIRMAN EWASUTYN: Jerry and Michael, thank you.

Any additional comments from Jerry or Mike Donnelly at this point?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: Okay. Ken Wersted, Traffic Consultant?

MR. WERSTED: We have a couple of comments, some of which were reflected by the other consultants, regarding the parking within the access easement area in common to the two properties.

We had another parking comment relative to the parking in the rear island area. The fact that parking spaces perpendicular to each other

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2 can sometimes lead to costly damage to another
3 vehicle if one driver is just a little bit
4 careless. So with that, we look for you to try
5 and improve that situation.

6 The other comments we had were relative
7 to the front of the building. The project right
8 now has a common access drive down the center.
9 It's approximately forty feet. DOT is requesting
10 that it be narrowed down to thirty, basically to
11 probably control that area a little bit more.
12 With the size of the building it's not a huge
13 site with tons of parking. There is a driveway
14 next door to the west, and with the driveways all
15 kind of in succession there, we would look to
16 request that the western most driveway be closed
17 and that the site primarily use that main
18 entrance down the side. Obviously that's
19 contingent upon DOT reviewing it, and they have,
20 I think, the ultimate say on that.

21 The only other comment was with regard
22 to a sidewalk running from that main center
23 access across to the western side of the property
24 line connecting to the driveway to the west. I
25 think some of the Planning Board Members have

1
2 observed people walking in that area, primarily
3 coming out of the City of Newburgh where there
4 are sidewalks on 17K. I know the city line is
5 just to the east of that --

6 MR. LYTLE: Yup.

7 MR. WERSTED: -- where the sidewalk
8 kind of disappears as it crosses over a bridge.

9 MR. LYTLE: Right.

10 MR. WERSTED: And then basically there
11 aren't any pedestrian accommodations beyond that
12 to walking on the street or walking in the
13 grassed area, if you will, or the curbed area.

14 I believe there's some uses, some
15 generators to the west, like Aldi's, and the
16 Target center, and grocery shopping in that area
17 that are probably likely generating that traffic.
18 Depending on the uses here, there may be some
19 pedestrians walking through it. Most people will
20 be walking past the site.

21 That was all the comments we had.

22 CHAIRMAN EWASUTYN: Karen Arent,
23 Landscape Architect?

24 MS. ARENT: I just had a bunch of
25 clean-up issues and also landscaping comments. I

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think that your island of a big triangle of green will help improve the street scape.

If you can look at whether you're going to keep some of that curbing in the middle of that green.

I was also looking at the site plan. If it's possible to change some of those striped islands to green islands, that would be helpful. So if you can look at those issues, that would be great. Thanks.

CHAIRMAN EWASUTYN: Is that in the front or the rear of the building?

MS. ARENT: Oh, in the front. There's like -- near the existing sign there's stripes and -- it doesn't make sense to do anything really skinny. If you have five feet or more.

MR. LYTTLE: The larger areas.

MS. ARENT: The larger areas.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Some of the comments have been addressed, DOT access, City of Newburgh approval for sanitary sewer connection is required.

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I don't know if this structure is existing connected or if there's a septic system there or something.

MR. LYTLE: Existing. We've been working with Doug from the sewer department to tie into one of the adjoining manholes. We don't know exactly which location it will be.

MR. HINES: You'll need a sign off from the City of Newburgh to accept that flow before the Board can take action.

I had a comment about exiting to the rear which Jerry will address at building permit.

The building will have to be sprinklered. Since the addition, the Town of Newburgh has a sprinkler requirement. You'll need a connection. Obviously you're not going to use the existing well. There will be a connection to the water system.

I didn't see handicap parking spaces on the plan. Those will need to be shown.

Again, I had a comment on the easement that you'll get from Mike Donnelly.

You also have a dumpster enclosure being constructed within that easement. I don't

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know if that's permitted or not but it's something you need to look at.

I need from you a calculation of the existing and proposed impervious services. Hopefully less impervious, I think based on Karen's comments, so we can sign off on the stormwater and Chapter 9 for the redevelopment criteria.

The location of that sewer line should be shown on the plans.

I'm a little confused about what was existing and what was proposed on the plans. If you could darken the existing or darken the proposed so people in the field will know what they're looking at.

That's all I had.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: I think we're looking to see -- this is the first project coming out of the City onto 17K. You said no one has sidewalks yet. We haven't done too many projects. The ones we're starting to do, we would like to see the sidewalk starting somewhere. This happens to

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be the starting point out of the city. I do see people walking there all the time on 17K.

MR. LYTLE: I have to work with the DOT.

MR. GALLI: However they can work it out. If possible, we would like to see it.

CHAIRMAN EWASUTYN: When you speak with the DOT would you establish the responsibility of maintenance of that? That's always a question.

Ken Mennerich?

MR. MENNERICH: I have no questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Perhaps this is a question for Mike. What's the difference between saying that there are maximum five retail suites versus saying maximum 8,400, which is the whole space?

MR. DONNELLY: There can be no more than three retail stores. He can redivide the five units into three but --

MR. PROFACI: It's the quantity of the stores, not the square footage?

MR. HINES: We don't want office to turn into retail also.

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MR. PROFACI: Understood. So a maximum of three stores but it could be the whole building?

MR. DONNELLY: Realistically, as long as there's no other use that could have retail, it could have three up to 8,400, then they had the building. If they had 6,000, they can still only have three. The balance would have to be office.

MR. PROFACI: Okay.

MR. DONNELLY: We're trying to hit it both ways. I didn't realize they could still meet bulk with having all retail. So it's less important but still we want to make sure that there can be only three units retail, and that if they don't make the whole building retail, the other two units would be the balance of the space.

MR. PROFACI: Okay. Thank you.

MR. FOGARTY: I just had that one thing Ken had mentioned, the perpendicular parking. You probably should look at getting rid of that.

MR. LYTTLE: Okay. We can address that.

CHAIRMAN EWASUTYN: John Ward?

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MR. WARD: No comments.

CHAIRMAN EWASUTYN: Mike Donnelly, at this point I believe the Board will be referring it to the ZBA. If you would give us an interpretation, one more time for the record, what that will be.

MR. DONNELLY: I'll send a referral letter sending this for consideration of variances as follows: Front yard, one side yard, both side yards, maximum building coverage and maximum lot coverage, and I'll indicate in my letter that that's based upon a plan to be amended that will show not more than three retail units. Moreover, I'll point out to them that although we may issue a lead agency designation tonight, we have no problem with them handling this either, if it's appropriate, as a Type II or on an uncoordinated basis so they don't have to wait for our SEQRA determination.

CHAIRMAN EWASUTYN: Any comments on the referral letter that Mike Donnelly is preparing on our behalf to the ZBA?

MR. GALLI: No.

MR. MENNERICH: No.

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MR. PROFACI: No.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: At this point then I move for a motion to declare our intent for lead agency and to circulate to the Orange County Planning Department.

MR. GALLI: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Joe Profaci. Will there be any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you.

MR. LYTTLE: And actually, I'll modify

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that note on the plan when I drop it off for you to give to Orange County.

CHAIRMAN EWASUTYN: You'll drop it off to Bryant Cocks and Bryant will coordinate that.

MR. LYTLE: Thank you.

(Time noted: 8:33 p.m.)

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

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

DATED: November 30, 2010

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

----- X

In the Matter of

GOLDEN VISTA
(1999-33)

Meadow Hill Road
Section 60; Block 1; Lot 9
R-3 Zone

----- X

AMENDED SITE PLAN
and ARCHITECTURAL REVIEW BOARD

Date: November 4, 2010
Time: 8:33 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: STANLEY SCHUTZMAN

----- X

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

1
2 MR. PROFACI: The next item on
3 tonight's agenda is Golden Vista, Meadow Hill
4 Road, Section 60; Block 1; Lot 9, located in the
5 R-3 Zone. It's an amended site plan and ARB
6 represented by Kirk Rother.

7 MR. SCHUTZMAN: My name is Stanley
8 Schutzman, I'm an attorney with Hanig & Schutzman
9 representing the applicant. With me is Chris
10 Renada. Chris is with Kirk Rother's office.

11 We're here on an amended site plan
12 application. By way of just some slight history,
13 the Board will note that this carries a 1999
14 project number. This development was originally
15 proposed some time ago and was caught up in the
16 sewer moratorium.

17 The site plan approval was issued by
18 the Board in January of `09, filed in the clerk's
19 office in March `09 for senior housing approved
20 188 units.

21 In May of this year the applicant
22 appeared before the Planning Board with a request
23 to receive a recommendation to the Town Board for
24 approval to come back before the Planning Board
25 on an amended site plan permitting the

1
2 development to be non-senior housing, and also to
3 receive the increased density that affordable
4 housing under the Town Code would provide.

5 In June of this year the Town Board
6 approved a resolution authorizing the applicant
7 to come back to the Planning Board, among other
8 things to -- with the density bonuses. The Town
9 Board specifically established 164 units, which
10 would be down from the 188 pre-approved by the
11 Planning Board, of which 18 would be affordable
12 under Town Code 185-47. As part of that
13 resolution the Town Board had directed that the
14 Planning Board hold another public hearing on the
15 matter.

16 So basically we're back here for two
17 purposes tonight, subject to the engineering
18 discussion. The first is to request some sort of
19 guidance and determination from the Board as to
20 what extent, if at all, an additional traffic
21 study would be desired, and to request that the
22 Board schedule this for a public hearing.

23 So without anything further, I'll turn
24 it over to Mr. Renada for his engineering
25 discussion.

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2 MR. RENADA: This site plan amendment
3 is -- there's not much change from what was
4 originally approved. The major change is the
5 number of units and the size and shape of the
6 buildings. I believe there were more buildings
7 before the previous plan and more units.

8 There's also additional parking. We
9 provided two spaces per each unit and playground
10 areas which were not shown on the other ones.

11 The road profile, the water main and
12 the sewer main should all be exactly the same as
13 it were before.

14 The stormwater, the hole will be the
15 same but we'll have to update it to the current
16 requirements.

17 As far as that, those are the only
18 changes that are being proposed on this site plan
19 amendment.

20 CHAIRMAN EWASUTYN: At this point I'll
21 turn to Ken Wersted, our Traffic Consultant, as
22 far as identifying the areas that will need to be
23 considered in a traffic study update, and the
24 reasoning behind them.

25 MR. WERSTED: We first wanted to

1 compare what the previous project was as a senior
2 housing project to the current proposal as a
3 market rate/affordable housing project. In terms
4 of traffic . As a senior housing project of 180
5 units, the site is going to generate between 25
6 and 30 peak hour trips, those being in the
7 morning -- the typical peak morning commuter
8 times and the afternoon peak commuter times. As
9 a senior development, fewer of your residents are
10 going to find the need to commute somewhere to
11 work or go out during those times specifically,
12 whereas when you switch over to a market rate
13 project, it's standard the residents, obviously
14 more of them will be working, they'll have to
15 follow along with more typical commuter patterns.
16 They're going to work in the morning and coming
17 home in the evening.

18
19 Looking at the trip generation between
20 the two sites as well as the comparison of the
21 unit counts, the proposed site would generate
22 between 85 and 105 trips during the morning and
23 the afternoon peak hours. So the trips generated
24 by the current proposed project isn't a largely
25 significant amount, especially when you look at

1
2 the neighborhoods in that area that all feed
3 traffic onto Meadow Hill Road. But it is quite
4 different from the previous senior housing. It's
5 about three times as much traffic.

6 Keeping that volume kind of in mind, we
7 use that to kind of base how many intersections,
8 study areas, that we would suggest looking at.
9 Obviously we didn't feel you needed to look at
10 ten neighborhood intersections, but also looking
11 at just one may not be enough. So we suggested
12 looking at the Route 300/Meadow Hill Road area
13 where a lot of these residents are likely to come
14 down and pick up Route 300 and then travel to
15 wherever their destination is. And then also to
16 the west, looking at the Meadow Hill Road and
17 Paton Road intersection, traveling in that
18 direction you pick up Paton Road to, I believe it
19 was Lakeside which will then take you to 84, and
20 you can take that to the west and travel in that
21 direction.

22 So those are our two suggested
23 intersections along with looking at the traffic
24 right in the neighborhood of the site, how much
25 is going back and forth on Meadow Hill Road right

1 where the site driveway comes in.

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3 Following along with other standard
4 traffic engineering methodologies, looking at the
5 existing conditions, looking at the future
6 traffic conditions before the project is built
7 out, and then looking at the future traffic
8 conditions after the project is built out. If
9 you're anticipating that this project would be
10 constructed in five years, you would look at
11 today's conditions, the 2015 without the project,
12 2015 with the project, and that would give the
13 Board basically a comparison of what's happening
14 today, the before and after of the project. Those
15 notes are detailed in my letter. If you could
16 follow along with that. If you have any
17 questions, feel free to call the office and we
18 can talk about them in more detail.

19 The only other comment I had was with
20 the change of the project from senior housing to,
21 you know, market rate and affordable, you're
22 likely to have some children living and residing
23 in the project. Obviously you have a playground
24 area on the west side of the site. As a kid
25 living in a neighborhood pretty close to a

1 school, we often beat paths in the woods
2 connecting with our neighborhood to the
3 playground to the school. So I could see where
4 kids from this neighborhood, or even the Meadow
5 Winds, would take advantage of the sidewalks and
6 the connection between the neighborhoods to go
7 from the parking lot area between buildings 1 and
8 3 over to the Meadow Hill School. There quite
9 easily could be a path beaten through there.
10 That is somewhat formalized. It doesn't
11 necessarily need to be a concrete sidewalk, it
12 could be a wood chipped path. I think that would
13 be advantageous to the residents and the children
14 to be able to move between the developments and
15 the school rather than coming out onto Meadow
16 Hill Road.

17 That was the extent of our comments.

18 CHAIRMAN EWASUTYN: Thank you.

19 Karen Arent, do you have anything to
20 add at this time?

21 MS. ARENT: I just had some comments
22 with regard to when the architectural drawings
23 are developed. Often it's -- you should show the
24 steps that are made. You have the six inches
25

1 below the sill. Usually your sidewalks are two
2 feet below the finished floor grade of the
3 building. You should show the steps, both into
4 the residence and out of it, just to make sure --
5 on Brighton Green the whole patio sometimes was
6 used up by steps because it wasn't considered at
7 the design stage. If the patio could have been
8 moved a little forward, they would have space.
9 So if they could think about that when they're
10 developing their plans, it would be helpful in
11 the future for the families living there.
12

13 CHAIRMAN EWASUTYN: Thank you.

14 Bryant Cocks, Planning Consultant?

15 MR. COCKS: The only real comment I had
16 was the Town Board is in the process of
17 discussing a new local law regarding residential
18 lot areas which could affect this project. I
19 provided a copy of it to Mr. Rother for his
20 review, and just ask the next time he comes in if
21 he could identify any changes that could
22 potentially happen with the project.

23 MR. SCHUTZMAN: May I address that?

24 CHAIRMAN EWASUTYN: Sure.

25 MR. SCHUTZMAN: First, we feel that

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2 with the Town Board approval, if they do decide
3 to adopt it, we're still entitled to present the
4 plan as shown. But if we are held bound to --
5 assuming it's approved in the form that's been
6 proposed, if we are held bound to that, based on
7 our calculations -- let me step back. The
8 initial calculation, that was just a straight
9 calculation, number of units per acreage. What
10 the new regulation proposes to do is it talks
11 about usable footage, and we don't lose that much
12 in terms of our analysis. We feel that at most we
13 would run down from 164 to 159 units. There
14 would be a five-unit offset.

15 CHAIRMAN EWASUTYN: Are you satisfied
16 with that, Bryant?

17 MR. COCKS: Yeah. I think Kirk is
18 going to write a narrative of what the changes
19 are going to be when I talked to him about it.
20 I'll be satisfied with that.

21 CHAIRMAN EWASUTYN: Okay.

22 Pat Hines, Drainage Consultant?

23 MR. HINES: As the applicant's
24 representative said, we have the concept plans
25 now. We would be reviewing the revised grading

1 plans, the soil erosion control, stormwater
2 management and the utility plans. If they didn't
3 change you just need to provide those again.
4 We don't have any of that yet to comment on.
5

6 CHAIRMAN EWASUTYN: Questions from the
7 Board Members. Frank Galli?

8 MR. GALLI: No additional.

9 MR. MENNERICH: Nothing.

10 MR. PROFACI: No questions.

11 MR. FOGARTY: I just had a concern
12 about the new local law, what impact it would
13 have on the project.

14 MR. SCHUTZMAN: As I say, we believe it
15 doesn't have any impact because we did receive
16 specifically Town Board approval by resolution,
17 but on the chance that that was determined not to
18 be the case, it's a very immaterial situation.

19 MR. FOGARTY: Thank you.

20 CHAIRMAN EWASUTYN: Mike, as far as
21 SEQRA as it relates to this amended site plan?

22 MR. DONNELLY: I think we need -- the
23 traffic study Ken is talking about flows from the
24 change from age restricted housing to non age
25 restricted. It really has nothing to do with the

1
2 affordable component. We talked for some time
3 that we need this updated traffic study. The
4 applicant will need to do that. I think we will
5 likely need to reaffirm the negative declaration
6 that you issued some years back, or, if the
7 traffic study shows something surprising or
8 different or had some significant issue, then you
9 might have to amend that resolution to something
10 else. I think we need to await that traffic study
11 to know what to do.

12 MR. HINES: I would need the stormwater
13 management and the grading plans also. I would
14 recommend to the Board that.

15 CHAIRMAN EWASUTYN: Any additional
16 questions or comments?

17 MR. GALLI: No.

18 MR. FOGARTY: No.

19 CHAIRMAN EWASUTYN: Thank you.

20 MR. MENNERICH: Those pieces that still
21 have to be studied, we'll have to get the results
22 of that before we set it up for a public hearing.

23 MR. DONNELLY: I believe you should
24 issue your SEQRA declaration before the public
25 hearing.

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CHAIRMAN EWASUTYN: Okay.

MR. SCHUTZMAN: Yeah. But may I inquire then in terms of the timing, vis-a-vis the existing approval? If you're going to require that the negative dec be reaffirmed, then do I assume correctly that that starts the time running fresh?

MR. DONNELLY: Number one, you have an approval, my notes show, from January of 2009.

MR. SCHUTZMAN: Yes.

MR. DONNELLY: That's good for two years, extendable for an additional year. If you were to receive an amended approval, the Board, as I recall, has usually taken the position that you get a new two years plus one additional. It would not come from the declaration of significance but from the approval itself. But you're well within the time limit for your approval anyway.

MR. SCHUTZMAN: Okay. So I should be making application to the Board for the one-year approval at this point?

MR. DONNELLY: You still have -- you have until January -- actually, you're right.

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2011 is coming up. Yes, I would say so.

MR. SCHUTZMAN: Respectfully, I would make application to the Board to request that the site plan approval --

CHAIRMAN EWASUTYN: Can we have that in writing?

MR. SCHUTZMAN: Yes, sir.

CHAIRMAN EWASUTYN: We'll take that up under Board Business.

MR. SCHUTZMAN: Thank you.

CHAIRMAN EWASUTYN: You're welcome. That's how we normally do it, Stan. We'll take it in writing. You'll receive a letter from us stating that that was granted, and it will all be part of the record.

MR. SCHUTZMAN: Thank you very much.

CHAIRMAN EWASUTYN: Anything else?

MR. SCHUTZMAN: No. Thank you very much for your time.

(Time noted: 8:48 p.m.)

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

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

DATED: November 30, 2010

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

----- X

In the Matter of

FCB PROPERTIES, INC.
(2007-18)

Route 32 and Powelton Road
Section 80; Block 5; Lot 10
B Zone

----- X

SITE PLAN

Date: November 4, 2010
Time: 8:48 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE

----- X

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

1
2 MR. PROFACI: FCB Properties, Inc. at
3 Route 32 and Powelton Road, Section 80; Block 5;
4 Lot 10, located in the B Zone. It's a site plan
5 being represented by Vincent Doce.

6 MR. VINCENT DOCE: This evening I'm
7 here and I prepared a site plan for the FCB site
8 located across from the entrance to I-84 at the
9 corner of Powelton Road and Route 300. With me
10 this evening is Joe Rohns, the attorney for the
11 applicant; Joe Bonura; and Darren Doce who
12 prepared the site plan.

13 Since it's been about three years since
14 we were here last, perhaps I can just give the
15 Board a very quick rundown of what's transpired.

16 In 2007 we presented essentially the
17 site plan that you see before you, and the Board
18 gave conceptual approval, neg dec, and since we
19 had been before the DOT for some time, they
20 referred us to the DOT to finalize our approvals.
21 The DOT essentially was in favor of what we were
22 doing, and one of the conditions that the DOT had
23 requested, and this Board had requested as well
24 as the Town Board, was that we move an existing
25 entrance from where the pen is here, a little

1 further to the west because everyone felt that
2 having the entrance drive across from the ramp
3 onto I-84 was a lot safer than keeping the
4 existing entrance as it had been built for some
5 twenty, thirty years. We did that. We moved it.
6 The DOT, as I said, was in favor of what we were
7 doing, but they had requested that we enter into
8 some kind of a discussion with them on how the
9 traffic would be stopped on Route 32 at the
10 light, the existing light for the Quickway -- I
11 mean for the I-84 ramp. What they were
12 particularly interested in is that any traffic
13 coming in this direction would not block anyone
14 coming out of Powelton Road to go in an easterly
15 direction or to get onto I-84. So, through some
16 light phasing negotiations between our traffic
17 consultant, Phil Greely, John Collins, and the
18 State, they came up with this staging pattern and
19 some traffic warrants. Essentially all this says,
20 after everything was said and done, is that
21 anyone going in an easterly direction would stop
22 here. There would be signage placed. They would
23 stop there, there would be striping, there would
24 be a box painted on the road that when the light
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2 changed this traffic would stop here to allow
3 cars to come out there, and anyone that had
4 gotten to this point, by the time the light
5 changed, would of course stop up closer to the
6 entrance. That was all negotiated and very close
7 to being approved, in fact verbally had been
8 approved, when something happened between the DOT
9 and the Federal Highway Administration.

10 You may be aware that for some period
11 of time the DOT had taken over maintenance and
12 authority over I-84 because they felt that was
13 more fluid and it was more cost effective. Just
14 at about the time we were getting our approvals
15 from the DOT, they transferred that back to the
16 Federal Highway Administration. The DOT then
17 forwarded our request for approval of the site
18 plan. The Federal Highway Administration came
19 back, at that point, and said due to policy
20 standards they would not allow a private -- or
21 would not approve a private entrance across from
22 an interstate ramp at which there was traffic
23 signalization.

24 Oddly enough, if we had gone with the
25 existing drive, which everybody agrees was not a

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2 good situation, they would have not triggered the
3 condition that this not be a private road. In
4 other words, this could be a private drive. Once
5 it was moved to here, involved that
6 signalization, it had to be a public road.

7 The DOT and the Federal Highway
8 Administration entered into some long discussions
9 along with John Collins, along with our attorney,
10 and the DOT notified us that that was going to
11 have to be a condition that this could not be a
12 private drive. It was not a condition of the
13 DOT, which, oddly enough, controls Route 32, but
14 a condition of the Federal Highway
15 Administration. We were referred to the Town of
16 Newburgh Town Board, and through a series of
17 discussions with the Town Board, and Town
18 Engineer, the Town Board agreed that they would
19 approve this or accept that as a Town road,
20 pending the approval by this Board, of the site
21 plan. And I think that was a local law.

22 Wasn't it?

23 MR. ROHNS: They passed a resolution,
24 which I believe the Planning Board received quite
25 some time ago.

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2 MR. VINCENT DOCE: And then we had to
3 enter into some other negotiations. Now with the
4 DOT, to affect the geometrics of the site and
5 they have all been worked out. About two weeks
6 ago they notified us that they were going to
7 approve the site plan as shown here, give the
8 approval for the entrance and for some other
9 parking configurations.

10 Today I think they notified you,
11 Darren, that that had been passed and that you
12 could proceed on. Is that correct?

13 MR. DARREN DOCE: They notified me that
14 our limit -- we had to prohibit access to the
15 remainder of the property. They notified that
16 they accepted that.

17 MR. VINCENT DOCE: What Darren is
18 referring to is prior to this we had right of
19 ingress and egress at that point, and no ingress
20 and egress over the rest of the site. It has now
21 been changed and it had to go through a number of
22 real estate approvals, land claims approval to
23 allow us now to have access in a previously
24 prohibited area and to deny access where we
25 previously had access.

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2 What all this eventually amounted to
3 was that nothing really has changed here except
4 two things that I'll mention to you. One I've
5 already mentioned. A drive would be shifted
6 here, and our original site plan that had
7 received conceptual approval, from this Board,
8 included an office building that was going to be
9 maintained at this location. Well, once we went
10 to this Town Board approved access, the Town road
11 I should say, Planning Board approved access, we
12 decided that it was not advantageous to the site
13 to have the office building remain, and we have
14 removed that from the site plan. That is really
15 the major change.

16 What it did do, however, is that since
17 this is going to be a Town road and the Town
18 Board put a condition that it had to be within a
19 fifty-foot right-of-way, places this corner of
20 the building in need of a variance. I believe it
21 needs a variance. I don't know. Unless counsel
22 comes up with some other way of doing it.

23 MR. DONNELLY: It's a Town road, then
24 you have to meet the setback.

25 MR. VINCENT DOCE: Can you call that

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eighteen-month old kid.

MR. DONNELLY: He's too smart.

MR. FOGARTY: He doesn't deal with that stuff.

CHAIRMAN EWASUTYN: You can just change the wording of it.

MR. VINCENT DOCE: That's why we're here. I believe --

CHAIRMAN EWASUTYN: Do you know the measurements as far as the referral to the ZBA?

MR. VINCENT DOCE: Seven feet.

MR. DONNELLY: Where what is required?

MR. VINCENT DOCE: At this point it would be in the B Zone, forty. And we're going to have -- it's up here in the corner. Fifty feet required and at that corner we would have seven.

MR. GALLI: I just have a question. They're not going to cut off Powelton Road on the other side?

MR. HINES: They might, Frank.

MR. PROFACI: The Knoll Drive.

CHAIRMAN EWASUTYN: Ken Mennerich has a question.

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2 MR. MENNERICH: Following up with Frank
3 there. So people coming down Powell Road will be
4 able to either decide to cut across traffic or go
5 on the new road?

6 MR. VINCENT DOCE: Powelton Road -- no.
7 Powelton Road would come down here and continue
8 just as they are now. They'll be able to enter
9 the site to get to the rest of the project. They
10 will not be able to go out.

11 MR. GALLI: It's a one way?

12 MR. VINCENT DOCE: It's a one way in.

13 MR. GALLI: You didn't tell us that. I
14 see the arrows now.

15 CHAIRMAN EWASUTYN: Any comments from
16 our consultants at this point? The applicant's
17 representative is here to be referred to the
18 Zoning Board of Appeals for a front yard setback.

19 Jerry Canfield?

20 MR. CANFIELD: Vince, I think you're
21 aware that this road, it does create -- now this
22 is a corner lot which now has two front yards.
23 So your variances needed would be for both front
24 yards, the one to the south which is seven feet
25 and the one to the north which is twenty-six and

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eighteen --

MR. HINES: That's the road.

MR. GALLI: The one to the west, Jerry.
The one to the west.

MR. VINCENT DOCE: That's sixty-two
feet.

MR. CANFIELD: I stand corrected. I
didn't count the parking spaces in there.
Anyway, for proper verbiage, it is a corner lot.
There is one front yard noncompliant. With that,
you have two front yards. It's your choice which
can be the side and the rear, and using that to
your advantage then, the side and the rear can
comply. So yes, you need one variance.

MR. VINCENT DOCE: Right.

CHAIRMAN EWASUTYN: Frank, are you okay
with that?

MR. GALLI: Yeah. I just have -- why
would the DOT and the Federal not have traffic
control going both ways? Just a one way in with
a traffic signal in. Traffic would flow out of
that site a lot easier if it was two ways than
trying to get out of a road with a stop sign that
you can't get out of now.

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2 CHAIRMAN EWASUTYN: I think they just
3 want to minimize the use of their light, their
4 roads.

5 MR. DARREN DOCE: They don't have an
6 out. The reason that was given to me was that
7 the amount of cars that would be using that
8 intersection would push the level of service to
9 an unacceptable level at the light.

10 MR. GALLI: It probably would, because
11 everybody would want to go to the light because
12 it's easy to get out of.

13 CHAIRMAN EWASUTYN: Any additional
14 comments from our consultants?

15 MR. DONNELLY: I have one. Have you
16 discussed at all, does this create a need for a
17 subdivision as well? Are we now cutting the lot
18 in two?

19 MR. HINES: Yes.

20 MR. VINCENT DOCE: You know, it's an
21 unusual situation. You will be cutting the lot
22 in two, leaving this piece in the same ownership.
23 Back when I first started a hundred years ago,
24 that was always taken care of by a Z line and
25 nobody found a problem with that. It could be

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construed that you need a variance for a nonconforming lot.

MR. DONNELLY: That's where I was going next. Once this happens, you can get a new tax map number assigned that can be sold, and then somehow, by accepting dedication of a roadway, we've created a noncomplying lot.

MR. HINES: Their stormwater management pond is going on that noncomplying lot.

MR. ROHNS: That's not a building lot.

MR. DONNELLY: Joe, we can do that then. We would say that this remains a part of the site and must remain in consistent ownership.

MR. ROHNS: That's for drainage, for the detention.

MR. HINES: My concern is that someone doesn't pay taxes on that lot, the drainage lot and goes for tax sale. It needs to somehow -- I think it's going to be a separate lot because the Town road splits it. Somehow or another it needs to be part of this site plan.

MR. DONNELLY: We'll think of a condition that will do it.

MR. HINES: That's the gist of my

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comment one.

MR. GALLI: Didn't we have that problem on Rock Cut Road where one --

MR. HINES: Mountain Lake Estates.

MR. GALLI: Did that stay one tax lot?

CHAIRMAN EWASUTYN: That did get a separate tax lot.

MR. CANFIELD: They were separate.

MR. DONNELLY: I don't really think the tax map designation -- they're tax map designations. We're going to say this is part of this site plan. It functions as a drainage lot. It can remain part of it. It can't be developed for any other purpose.

MR. HINES: It would have to stay part of it.

CHAIRMAN EWASUTYN: That's a site we'll look at. Remind me during our site inspection.

MR. GALLI: Mike, I mean they didn't create the subdivision.

MR. DONNELLY: No. I think what we're going to say is what it may look like when it's not a subdivision, it's part of the site plan.

MR. GALLI: So we don't have to go for

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the subdivision.

CHAIRMAN EWASUTYN: Any additional comments from our Board Members.

MR. FOGARTY: I was just curious. Do we know how much traffic is going to be generated coming out of the property onto Powelton Road?

MR. VINCENT DOCE: You don't have the figures?

MR. DARREN DOCE: I don't have the figures, but I'm sure Phil Greely or Pete Rizzi will. They did that to submit to the State, so I'm sure --

MR. FOGARTY: Coming out of the property, taking a right is not a problem. Taking a left is always a problem.

MR. VINCENT DOCE: We can get you those figures.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: Mike Donnelly, would you present to the Board a referral to the ZBA?

MR. DONNELLY: Sure. I'll send a referral letter pointing out that the reconfiguration of this lot with the Town roadway

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is creating a corner lot with the need for two front yard setbacks. One of those does not comply, and that is a seven-foot front yard where fifty-foot is required, and we'll send it for consideration of an area variance.

CHAIRMAN EWASUTYN: Okay. Have you gotten Town Board approval for a road name for the new Town road?

MR. VINCENT DOCE: No, we haven't.

CHAIRMAN EWASUTYN: You may want to tie that into the approval process.

MR. VINCENT DOCE: Okay.

MR. DONNELLY: Has a dedication occurred already? That will occur after the normal course?

MR. ROHNS: Right. That will occur -- in speaking with Mark Taylor, we'll take care of that at the same time as --

MR. DONNELLY: We'll include a condition in the resolution that the offer of dedication be delivered.

MR. ROHNS: Get us the paperwork for the relinquishment of the existing access and the new access.

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FCB PROPERTIES, INC.

126

CHAIRMAN EWASUTYN: Congratulations,
MR. VINCENT DOCE. Your son was telling me that
your grandson is going to be coming in here also.

MR. VINCENT DOCE: It's awful. I tried
to talk him out of it.

(Chuckles.)

(Time noted: 9:07 p.m.)

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

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

DATED: November 30, 2010

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

----- X

In the Matter of

LANDS OF TARBEN, INC.
(2004-43)

Request for an Extension of Conditional Final
Subdivision Approval

----- X

BOARD BUSINESS

Date: November 4, 2010
Time: 9:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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CHAIRMAN EWASUTYN: We have a few items of Board Business and then we'll go from there.

MR. PROFACI: The first item of Board Business is the Lands of Tarben, Inc., a request for an extension of conditional final subdivision approval which will run from January 7, 2011 to April 7, 2011.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. FOGARTY: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty, I have a second by Ken Mennerich to approve the extension for the Lands of Tarben. I'll move for a roll call vote.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes.
So carried.

(Time noted: 9:09 p.m.)

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

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

DATED: November 30, 2010

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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 an Extension of Conditional Final
Site Plan Approval

----- X

BOARD BUSINESS

Date: November 4, 2010
Time: 9:09 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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TRINITY SQUARE

131

MR. PROFACI: The next item is Trinity Square, a request for an extension of conditional final site plan approval which will run from December 16, 2010 to March 16, 2011, I guess that should be.

CHAIRMAN EWASUTYN: I'll move for a motion to grant the Trinity Square request for extension.

MR. PROFACI: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

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

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

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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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DATED: November 30, 2010

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

----- X

In the Matter of

ELM FARM SUBDIVISION
(2000-09)

Request for an Extension of Conditional Preliminary
Subdivision Approval

----- X

BOARD BUSINESS

Date: November 4, 2010
Time: 9:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MR. PROFACI: Next item is Elm Farm, a request for an extension of conditional preliminary subdivision approval which will run from November 9, 2010 to May 8, 2011.

MR. FOGARTY: So moved.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty. 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.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

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

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

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

DATED: November 30, 2010

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

----- X

In the Matter of

DISCUSSION BY KEN MENNERICH & CONSULTANTS
RE: SIDEWALK WIDTH

----- X

BOARD BUSINESS

Date: November 4, 2010
Time: 9:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
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MR. PROFACI: The next item is a discussion with Ken Mennerich and consultants regarding various e-mails on sidewalk width.

CHAIRMAN EWASUTYN: What had happened was there was a discussion, as you recall, when Greg Shaw was representing the Route 9W convenience store, and his thought on having a four-foot sidewalk.

Jerry, you checked the code and you found that a four-foot sidewalk met code. Why don't you speak.

MR. MENNERICH: It met code if you had five pass zones, if it was over a certain length, which was I forget what it was, two-and-a-half feet.

MR. HINES: For three hundred feet.

MR. MENNERICH: And then there was some follow-up e-mails from Ken that kind of -- I'll let Ken -- you can explain your e-mails.

MR. WERSTED: I had asked around the office and I basically got two responses. There's the ADA accessible guidelines which basically say that I think the preferred width is five feet, but at a minimum you should provide

1 three feet, and if you were to provide three feet
2 you have to allow enough room at certain
3 intervals for a wheelchair supposedly to pull
4 over and allow people to pass. That distance was
5 two hundred feet. When you got out to that area
6 you needed to widen the sidewalk to five feet and
7 then you could narrow it back down. So that was
8 one source, that being the ADA guidelines.
9

10 The other source was DOT's highway
11 design manual. They are more stringent,
12 ironically, than the ADA. Looking through their
13 manual, they recommend that a five-foot sidewalk
14 is the minimum that you should use, particularly
15 where there aren't obstructions, there are, I
16 guess, situations where you can't engineer around
17 it. One example might be a cliff, a bridge
18 abutment where to provide the sidewalk you have
19 to go narrower than that five foot. But in areas
20 where you don't have those restrictions, five
21 foot is the preference. So I had copied an
22 excerpt out of that. I included that in the
23 e-mail.

24 Today I also started looking through
25 the highway design manual. Chapter 18 of it is

1
2 basically about pedestrian facilities and it's
3 got a lot of information in it revolving around
4 the whole sidewalk design aspect of the issues of
5 it, the department's policy as an entity, as a
6 whole. Obviously local regions might have
7 differing opinions about that. In general
8 they've taken the position of the Federal Highway
9 Authority in that pedestrians are a mode of
10 travel and it has to be considered as much as,
11 you know, vehicles are considered.

12 One of the aspects that they talk about
13 is when you're coming through with a project to
14 fix the road, you also need to look at the
15 pedestrian facility to see if that needs to be
16 upgraded to meet current standards. Not to do so
17 would mean you're basically accommodating one
18 user and not all of them. So there's a lot of
19 information. I had just copied out a couple of
20 pages and I would be happy to copy those sections
21 and e-mail them to the Board Members and
22 Consultants.

23 I didn't know if there was any other
24 specific question or if anybody else had
25 anything.

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CHAIRMAN EWASUTYN: Keeping that thought in mind, 900 linear feet of sidewalk, four foot wide as it relates to the Holiday Inn, ballpark figure to construct?

MR. CANFIELD: Ballpark figure --

CHAIRMAN EWASUTYN: I'm talking to Pat Hines. Let's use a thousand feet, it's easier math.

MR. HINES: A sidewalk is probably \$55 a square yard now. Divided by three. At three foot wide it would be \$55,000. So you're probably at \$70,000.

CHAIRMAN EWASUTYN: That's what we're talking about. I'm not saying yes or no. That's what we're talking about as far as reflector lighting. I think the balance that he's saying is -- I think we're within reason to allow for two modes of traffic, vehicle traffic and pedestrian traffic. And then we --

MR. GALLI: John, that's a lot of money for a person to put in a sidewalk. If he's going to stripe it, he said put those things up, why can't you draw a picture. Pedestrians sometimes you see a picture of a bicycle. If you draw a

1
2 picture of a person on the pavement every so
3 often, stencil them in so they know it's
4 pedestrian and not vehicle. I mean during the
5 day it's going to help but --

6 CHAIRMAN EWASUTYN: Yeah. I'll bring
7 that up now with your ending comments.

8 MR. MENNERICH: I think that kind of
9 approach, like with the Holiday Inn, does allow
10 for pedestrian walking. It's a lot better than
11 what's over there on 300, which is nothing.

12 CHAIRMAN EWASUTYN: That's just the
13 point. We know there are going to be people
14 walking out of the Holiday Inn, walking down to
15 Denny's.

16 MR. HINES: The reason they don't want
17 to do that is for snowplowing. When you put a
18 sidewalk in it's manual labor to maintain. When
19 you make it part of the driveway, the snowplow
20 does it.

21 CHAIRMAN EWASUTYN: Any comments?

22 (No response.)

23 CHAIRMAN EWASUTYN: Put together
24 something for us to look at.

25 MR. WERSTED: Okay.

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MR. MENNERICH: Like Frank is talking about, you could have signs so that cars know it's a shared roadway. They do that for bicycles.

MR. GALLI: Stencil it.

CHAIRMAN EWASUTYN: Thank you. Remarkable.

MR. WARD: In New York they had it painted with people on the ground. But it's visual. You can see it at night, you know. It's that type of thing.

MR. GALLI: You can get reflective.

CHAIRMAN EWASUTYN: Even how they offset the parking. When I'm out there I say it's so hard to fathom. It almost seems like the car is parking in the --

MS. ARENT: I'm working on a project in Greenwood Lake where we're putting in pavers, permeable pavers, flush with the road, like five or six feet wide. That's dividing the pedestrian passageway and also taking stormwater.

MR. DONNELLY: It does help and it looks different.

MS. ARENT: It's not that expensive.

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MR. MENNERICH: Getting back to the sidewalks. Where you are going to have sidewalks, once we've approved the one that says four foot is okay with the bump outs, everybody is going to want to do it. I guess I would be interested in what the cost differential is to pour forms and pour out the sidewalk with the bump out versus just doing the straight five foot. Is there that much savings by going to the one foot less for --

MR. CANFIELD: It's more labor intensive to form out the bump outs than the straight runs.

MR. HINES: It's only two hundred feet. You're saving two hundred feet for every bump out you do.

CHAIRMAN EWASUTYN: Why don't we look at that when you have some time. Just comparisons. You'll put together some information for us.

MR. WERSTED: Yes.

CHAIRMAN EWASUTYN: Speak to me as far as how you may apply cost to that and see how we can allocate that.

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DISCUSSION - SIDEWALK WIDTH

(Time noted: 9:17 p.m.)

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

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DATED: November 30, 2010

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

----- X
In the Matter of

QUARTERLY SITE INSPECTIONS

----- X

BOARD BUSINESS

Date: November 4, 2010
Time: 9:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
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CHAIRMAN EWASUTYN: The last thing is we'll meet Saturday at 8 o'clock for our quarterly site inspections at the rec center.

At this point we'll move for a motion to close the Planning Board meeting of the 4th of November.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

(Time noted: 9:18 p.m.)

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

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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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23 DATED: November 30, 2010
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