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

----- X
In the Matter of

ELM FARM SUBDIVISION
(2021-15)

Wells & Fostertown Road
Section 39; Block 1; Lot 12.44
R-2 Zone

----- X

52-LOT SUBDIVISION

Date: November 4, 2021
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL

APPLICANT'S REPRESENTATIVE: JASON PITTINGARO

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of the 4th of November. This evening we have six items on the agenda and we have one Board Business item.

At this point we'll call the meeting to order with a roll call vote.

MR. GALLI: Present.

MS. DeLUCA: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. BROWNE: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. CORDISCO: Dominic Cordisco,
Planning Board Attorney.

MS. CONERO: Michelle Conero,
Stenographer.

MR. HINES: Pat Hines With MHE
Engineering.

MR. CAMPBELL: Jim Campbell, Code

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Compliance.

CHAIRMAN EWASUTYN: At this time we'll turn the meeting over to Michelle Conero.

(Pledge of Allegiance.)

MS. CONERO: If everyone would please put their cellphones on silent.

CHAIRMAN EWASUTYN: Our first item on the agenda this evening is the Elm Farm Subdivision, project number 21-15. It's a 52-lot subdivision located on Wells and Fostertown Road. It's in an R-2 Zone. It's being represented by Jason Pittingaro, PE.

MR. PITTINGARO: Good evening. I'm Jason Pittingaro from Pittingaro & Doetsch Engineers.

We are here tonight for Elm Farm Subdivision. As John mentioned, it's a 52-lot subdivision. It's had a long history with the Board. We were last here I believe in September.

Again, there has not been any change in the project itself since it's

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original approval many years ago, although the approval had lapsed so we are repeating the process.

The project is to be served by water and sewer. It has a number of outside agency approvals that were obtained at the time and that we had been working to reacquire.

The project was recently circulated for lead agency and to Orange County Planning for comments.

Since the last meeting we had reached out to the DEC to renew our water quality certifications and to Orange County Department of Highway for renewal of the entrance on Fostertown Road.

We're here tonight to review any comments from the County. I know the Town's engineer has asked that we discuss those.

We're asking tonight to be scheduled for our preliminary approval public hearing.

CHAIRMAN EWASUTYN: Thank you.

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Pat Hines with McGoey, Hauser & Edsall.

MR. HINES: As Mr. Pittingaro said, we did receive a Local determination from Orange County. They had several recommendations regarding tree preservation, the preservation of the nature hydrology on the site. There are some DEC regulated wetlands and regulated areas associated with the site.

They gave us their standard stormwater management comment and then a comment that said a valid highway work permit from the County DPW would be required. Again, they made it a Local determination. None of the comments were mandatory or binding.

CHAIRMAN EWASUTYN: Jim Campbell with Code Compliance?

MR. CAMPBELL: No comment.

CHAIRMAN EWASUTYN: Board Members. Frank Galli?

MR. GALLI: Nothing.

MS. DeLUCA: No. It's pretty

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straightforward.

MR. MENNERICH: Nothing.

MR. BROWNE: No.

MR. DOMINICK: Nothing, John.

MR. WARD: No.

CHAIRMAN EWASUTYN: So at this point we'll make a SEQRA determination and set it for a public hearing?

MR. HINES: You had previously issued a negative declaration on the project in the past. The project is consistent with the project you previously approved.

We did check when the new EAF was submitted. None of the environmental conditions changed. There wasn't the bat habitat or anything that we have been experiencing with projects that come back. This is not in that area.

The plan is identical to what was previously approved and there are no changes in circumstances in the environmental review.

CHAIRMAN EWASUTYN: Dominic

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Cordisco, Planning Board Attorney?

MR. CORDISCO: I concur that the next procedural step would be for this Board to make a SEQRA determination.

CHAIRMAN EWASUTYN: Okay. Having heard from Pat Hines with McGoey, Hauser & Edsall and Dominic Cordisco, Planning Board Attorney, would someone make a motion to declare a negative declaration for the Elm Farm Subdivision and schedule it for a public hearing on the 16th of December?

MR. DOMINICK: I'll make the motion.

MR. WARD: Second.

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

(No response.)

CHAIRMAN EWASUTYN: And a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

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MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: You'll work with Pat Hines' office as far as the public hearing notice and all.

MR. PITTINGARO: We'll contact them immediately.

Again, we do have some requests out to those outside agencies. As soon as we hear back we'll forward copies to the Board.

CHAIRMAN EWASUTYN: Thank you.

MR. PITTINGARO: Thank you, guys. Good evening.

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

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of November
2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

HADID SITE PLAN
(2021-10)

34 Susan Drive
Section 46; Block 5; Lot 21
R-1 Zone

----- X

PUBLIC HEARING
CLEARING & GRADING

Date: November 4, 2021
Time: 7:06 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL

APPLICANT'S REPRESENTATIVE: REUBEN BUCK &
JOHN CAPPELLO

----- X

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CHAIRMAN EWASUTYN: Our second item of business is the Hadid Site Plan. It's a public hearing on clearing and grading. It's located at 34 Susan Drive in an R-1 Zone. It's being represented by Engineering & Surveying Properties.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 185-57 K of the Town of Newburgh Code, Section 276 of the Town Law and Chapter 83 of the Town of Newburgh Code on the application of Hadid, 34 Susan Drive, project 2021-10, clearing and grading. The applicant proposes to clear and grade the rear of the subject parcel. The applicants have identified that 2,525 plus or minus cubic yards of fill has been placed on the site without approval. The current application proposes to remove 475

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cubic yards of the material, resulting in a net fill of 2,050 cubic yards of material. The existing parcel is 1.32 plus or minus acres in size. The project is located in the Town's R-1 Zoning District. The filling is proposed east of the existing residential structure on the site. The project is depicted on the Town's tax maps as Section 46; Block 5; Lot 21. A public hearing will be held on the 4th day of November 2021 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated 19 October 2021."

CHAIRMAN EWASUTYN: Thank you.

For the record you are?

MR. BUCK: For the record, Reuben Buck, Engineering Properties. I'm here with John Cappello from Jacobowitz & Gubits. We're here on behalf of the

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applicants.

As the Board stated, we've been before the Board for several months. We initially came before the Board after fill was placed on the site without a permit. When the owners of the property realized they needed a permit, they ceased work. Since then they retained us to do the engineering for them, moving around the fill so that the slopes are less than 2 on 1, relocating -- proposing a new septic system outside of the area of the fill.

Since then we've also received two geotechnical reports, one was solicited on behalf of the applicant, the other one was prepared by a consultant of the Board. Both reports gave recommendations on how to stabilize the fill and ensure that it will remain in place. Both reports concluded that there is no concern about stability for the proposed slope on this site, as well as neighboring slopes.

In preparation for the meeting

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the Hadids went door to door to their neighbors and received ten signatures, all stating that they have no objections to the Hadids finishing the project, clearing and grading their yard and installing their pool.

We would be happy to hear any comments the Board and the public may have.

CHAIRMAN EWASUTYN: John, do you have anything to add?

MR. CAPPELLO: No. Not at this time.

CHAIRMAN EWASUTYN: The way the meeting is held for a public hearing, if you raise your hand, give your name and your address when it's your turn to speak. What we'd like to do is have everyone have an opportunity to speak before we hear from those again.

Is there anyone in the audience this evening that has any questions or comments? Your name and your address?

MS. MANISCALCHI: Charlene

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Maniscalchi, 32 Susan Drive.

CHAIRMAN EWASUTYN: Okay.

MS. MANISCALCHI: Good evening.
My name is Charlene Maniscalchi. My husband and I are the adjacent neighbors at 32 Susan Drive, south of the Hadids. We have been present at every Planning Board meeting regarding this project the Hadids are trying to get approval for. We have been attending these meetings because we are extremely concerned with what has transpired regarding this project.

First and foremost, the construction at this property started in violation. The Hadids began construction without applying for the proper permits needed to begin a project of this magnitude. I know, because I've heard several times from their engineer, that they were unaware of the process. However, either way, ignorance is not an excuse for violating the laws, codes and steps that everyone else has to abide by. If the Hadids had taken the proper steps,

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I feel very confident that this Board would have denied the request and would have advised them to place the pool on their natural land grade, which is what every house that has a pool on Susan Drive has done without affecting any neighbors, including 38 Susan Drive and 28 Susan Drive who have both recently had pools installed, and again without affecting the viewshed of their neighbors.

Secondly, we have many structural concerns regarding the project at hand which we have heard time and time again at these meetings. We are majorly concerned with the runoff that is now coming from this grade increase. We are already seeing damage to our lawn, which in our ten years of owning the property has never occurred before. We understand they had a geotech consultant come out to their home to say the project at hand is stable. However, in the company's final conclusion analysis they noted that sloughing of soil occurs. Of course I didn't know what that

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definition meant. In looking up that definition, simply put it means soil falling off banks and slopes due to a loss in cohesion, or in other words a small landslide. I cannot risk the safety of my two year old son playing in his yard and the potential of sloughing of soil occurs, severely injuring him. This is not a fear a mother should have always running through her mind because of the unsafe choices someone else has made. If this incident does occur, what exactly are the geotech companies going to say to me? I am sorry, this was an oversight on our behalf? The safety of my son is not a risk that I'm willing to take. I'm not willing to put my faith in someone who would potentially be making an error, and we've all seen tragic results that simple humor error can cause.

Lastly, we have a major problem with the fact that this grade change has now significantly impeded our river view, severely devaluing our home investment.

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Since purchasing this home in 2010 we have invested a substantial amount of our hard earned savings to not only enhance our home but to also enhance the neighborhood. This was an investment that we felt very comfortable making because we knew with the improvements to the home and property and clear unobstructed view of the Hudson River, our investment would forever hold its value. We no longer have that clear view and we are now staring at a major eyesore. This project, even when complete, will be unsightly. We no longer have a clear view of the river to the north from our basement, under our deck or in our -- or standing in our yard, all of which had clear views both north and south of the river. Every case that appears in front of this Board or the Zoning Board that has to do with Susan Drive, the first matter that is considered is whether or not views will be impeded. Our view has been impeded significantly.

Another major factor that appears

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when in front of your Board or the Zoning Board is the issue of encroachment. I know this because we dealt with this issue in constructing our deck. I am going to quote the findings of our case in which our deck had to be brought in because of view impedance and encroachment of an already small side yard. And now I quote: "Neighbors present at the hearing, however, raised questions as to the impact of the proposed improvements upon their views of the Hudson River given the proximity of the home and the neighborhood to the river. Additionally, the neighbor immediately adjacent to the Maniscalchi's home to the northeast expressed concerns regarding the further encroachment into an already deficient side yard setback. The Board finds these concerns to be well placed. The Hudson River is a significant feature of the neighborhood and the preservation of the viewshed to the river is a legitimate objective for this Board to protect. Moreover, the Board finds

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that the character of the neighborhood would be best maintained by protecting this viewshed by any available reasonable means and by reducing the magnitude of the variance requested so that the viewshed is properly protected and further encroachment into the existing deficient side yard is minimized."

So ten years ago the Hadids were concerned about their view and their side yard encroachment, but now, ten years later, they built a massive structure just about on the property line and extended that structure well past our deck, blocking us from the river view to the north with no regards at all as to how they would be impacting our property value. I'm not exactly sure what has changed in those ten years.

I do understand wanting to enhance your home, adding to its value, as the Hadids I'm sure intended. However, this cannot be accomplished at the detriment of any other neighbor, hence the

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existence of your Board.

For all of these reasons we are pleading with the Members of this Board to please take into consideration all of these major issues when making a decision to allow this absolutely absurd plan to continue.

The fact that they dumped 2,500 cubic feet worth of fill and are only proposing to remove less than 500 cubic feet is honestly a joke and an insult to the intelligence of all parties involved.

In my opinion the Hadids are trying to set a very scary precedent with this case, which is do first and then ask for forgiveness later.

If they are able to get approval for this project that started in violation, and all they had to do was simply jump through a few hoops to satisfy the Board and now they can continue with their plan, what's going to stop the next person from doing the same thing?

Therefore, I do not believe they

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should be able to keep this mountain, for lack of a better word, up simply because they've already gone so far in the project.

We share the opinion which was stated at a previous Board meeting by a Member of this very Board, and again I'm going to quote. "We should be receiving a plan of the original grading to proceed from that point and to not try to and force fit this plan into something." So my opinion essentially is this whole thing should be scrapped, taken back down to the original grade and start from that point.

We are pleading with the Members of this Board to make that decision, to have the Hadids bring the grade back to its original form, then start the process correctly and place their pool in a position that doesn't impact the safety and investment of any neighboring property. We believe in your process and the protection as homeowners we have from this Board, and we are hopeful that in

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this process the correct measures will be taken to rectify this nightmare that has been plaguing my family for over two years now.

CHAIRMAN EWASUTYN: Your response to those comments, John?

MR. CAPPELLO: The Hadids hired a contractor. The contractor came out. Your code requires a permit if it's over 1,500 -- 1,500 cubic yards. They're at a little over 2,000, which is 475.

The Hadids have taken this serious. They've hired a geotechnical engineer to ensure now that -- the provisions in the Clearing & Grading Law require you to ensure that there's not erosion and sediment problems, and it requires you to ensure there's not erosion, which is why you had your engineers and your own geotechnical person look at it. It doesn't really provide in there whether the Planning Board reviews to determine whether they would prefer this or another alternative. You're

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looking at it from a safety perspective. It is a permit. It's not something that is prohibited. It's a requirement that you come in with the permit, that you come in with an engineer.

It is unfortunate, and the Hadids have reached out to the neighbors and certainly don't want to see their neighbors suffer, but we believe that we've come in, we have hired, we've done the geotechnical report. They made their recommendations. Your own geotechnical engineer plus your engineering consultants have looked at it. They've come up with additional recommendations regarding security and regarding additional measures to take. We're certain and the Hadids are certain and are willing and understand the need to do that.

So we're asking the Board -- it is unfortunate. We do wish we had come before. If we had come before we would be required to provide you with information why that activity is safe and why it would

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not create a burden.

Once again, it is not a prohibited activity. It's an activity that requires a permit and requires it to be done in a manner that won't have intrusive effects. It doesn't talk about viewshed anywhere in the Clear & Grading. Whether the viewshed is affected. It talks about erosion, which is why we did a geotechnical report. It talks about runoff, which is why our engineer had provided a report and given it to your engineer. So we believe we've met the requirements.

Once again, it is unfortunate. The Hadids are here. It wasn't meant to skirt the law. They hired a contractor. The contractor told them this is what you need and the contractor went ahead and built it. You know, the contractor should have known. I don't disagree with the statement made that you are assumed to know the law. They have had to expend -- stop work, expend a significant amount to

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address the situation, which we believe they have.

CHAIRMAN EWASUTYN: Can we speak on the report, the grading and how you look to mitigate the current conditions based upon --

MR. CAPPELLO: I'll give that to you. You know that better than me to speak to that.

MR. BUCK: The plans have been prepared, detailed erosion and sediment control measures that will be utilized on the site, which is a silt fence, the creation of a swale along the property line. There will be rip-rap to allow or to keep it from eroding. We've shown that this entire slope is to be stabilized using an erosion control product. These plans have been prepared with all the measures necessary to keep sediment from eroding.

I would just add that we've been at this Board for several months now and we've received many comments from the

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Board's engineer. We have exhausted those comments at this point. It is our understanding that these plans are complete. As shown or as requested by both geotechnical reports, the conclusions from both reports were the same, that the slope will be stable and there will be no ill effects to the global stability of the adjacent properties.

CHAIRMAN EWASUTYN: Pat Hines with McGoey, Hauser & Edsall. You reviewed the supporting documents. Your comments?

MR. HINES: The applicant's representatives were requested to provide a geotechnical report. That report was received by the Board. The Board authorized my office to send that to a geotechnical engineer working on behalf of the Town. Dan Loucks was the geotechnical engineer. He reviewed the applicant's report, provided comments. On 29 September we received responses to those comments. Mr. Loucks, the geotechnical

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engineer working for my office, found that the responses to his comments as well as modifications to the plan addressed the geotechnical concerns of the site and the global stability of the project.

The project identifies the removal of approximately 500 cubic yards of the material that had been placed on the site and a reduction in the slopes which was accomplished by pulling back the top of the slopes to a more central location on the site, both on the south side and the east side, creating slopes that were -- based on the two geotechnical engineers' reviews, that would be stable in their finished grades.

There are also a couple of suggestions requiring compaction of the material as it's removed, appropriate landscaping be placed on the site, and that a geotechnical engineer be on the site during the operations to accomplish the grades depicted on the plans.

CHAIRMAN EWASUTYN: Ma'am, you're

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looking to raise your hand.

MS. McMILLAN: Thank you, Mr. Chairman. My name is Veronica McMillan from Regenbaum, Arciero, McMillan & Burgess, 299 Windsor Highway, New Windsor. I represent the Maniscalchi family.

I've provided the Board with a couple of correspondence over the course of this application. I think Mrs. Maniscalchi did a tremendous job in expressing their concerns with regard to this project.

Frankly, I think with regard to viewshed in this area of the Town, I think everybody views it as important. There is no way to reduce this installation the way that it's been built to unblock their viewshed, because no matter what the grade on the side of the slope is, it will always be at 148 feet elevation at the top of the pool. Their property is at 139 feet elevation at its highest point. So they will always be 8 feet blocked to the north from the corner of their property.

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That is going to forever impede their viewshed.

Secondly, I did raise in my first correspondence to the Board the question of whether or not the entirety of this installation constitutes a structure which does violate the setbacks under your Code for the installation of this pool. I don't know if there's been a finding with regard to that. I'll raise that issue again this evening for the Board's consideration.

Again I'd ask the Board to consider the issues that we raised in our correspondence to you with regard to this installation as well as Mrs. Maniscalchi's comments and deny the application and require the removal of this installation.

Further, that a pool -- if the Hadids continue to want a pool in their backyard, that it be installed at the natural slope like everyone else in the neighborhood has done.

Thank you.

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CHAIRMAN EWASUTYN: Thank you.

Jim Campbell, Code Compliance, as far as the building permit that was issued on the pool and the standing of that permit now?

MR. CAMPBELL: A building permit for the pool was issued and has since been rescinded because of the filling that commenced. So that would need to be -- if the project proceeds, it would need a pool permit issued. Again, it would have to be applied for. It would also need a septic permit. Along with the pool there are possible structural issues with a buried retaining wall which would need to be addressed.

CHAIRMAN EWASUTYN: Additional comments from the public before I speak with Board Members?

(No response.)

CHAIRMAN EWASUTYN: Thank you. Let the record show that there were no other comments.

Frank Galli?

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MR. GALLI: No, John.

CHAIRMAN EWASUTYN: Stephanie
DeLuca?

MS. DeLUCA: Not at this time.

CHAIRMAN EWASUTYN: Ken
Mennerich?

MR. MENNERICH: No comments.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: The function of this
Board is to review plans that are before
us and to look at those plans to ensure
that the plan itself is within Code.
That's what we're doing tonight with the
grading and clearing permit.

Unfortunately a lot of the other
issues that have been brought up don't
come under the purview of this particular
application, and so going forward -- if it
was up to me I'd have my own decisions to
make, but I have to go by what the Code
requires us to do on this Board. So we're
going to go on with that.

CHAIRMAN EWASUTYN: Dave
Dominick?

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MR. DOMINICK: Nothing further.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'm more concerned that you're taking 500 yards out but the existing one that you put in, whether it was compacted back and forth the right way with no supervision, whether the excavator did it, whatever it was, there's no way to take a roller over it when it's already done. That's my concern.

MR. CAPPELLO: I mean that will be part of the engineer's report and the geotechnical survey. Once a building permit is there, they'll have to demonstrate to the Building Department that it is structurally sound and it's consistent with the geotechnical report. So if the Building Department requires, after the removal of that material, that it's tested again, the applicant is willing and would have to do that.

MR. WARD: And if this goes forward, I emphasize for the geotechnical engineers following their reports, both of

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them, what they said and to make the project solid safety wise.

MR. CAPPELLO: Absolutely.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Dominic Cordisco, Planning Board Attorney?

MR. CORDISCO: Thank you, Mr. Chairman. I think the Board is well informed as to the procedural status of where this particular application stands.

You are in the middle of a public hearing. You have not closed your public hearing yet.

The Board has not yet taken action under SEQRA. This is an action that's subject to SEQRA. SEQRA does require the lead agency, in this case the Planning Board, to evaluate potential visual impacts. The visual impacts analysis that the Planning Board and SEQRA provides is visual impacts to public spaces, not necessarily private spaces. So the Board's jurisdiction under SEQRA is somewhat limited in contrast to the Zoning

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Board of Appeals, where the Zoning Board of Appeals is evaluating variances with specific regard to how that variance would be affected or affect other neighboring surrounding properties.

So one item that you have is in connection with SEQRA, but then the second item that you have to consider, to make it more complicated, is the standards for granting the permit. If your decision is to grant or deny a permit, it has to be based on the standards that are in the Clearing & Grading Code. They're found in Chapter 83-10. The provisions have a broad base as well as more specific items. One in particular, the very first one, is the most relevant for the concerns that have been raised here tonight.

So the standards for granting a permit, if I may read this particular section, it says, "In granting a permit under this chapter, the standards and considerations taken into account shall include but not be limited to the

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following:" The first one is section A, "Excavation, filling, grading, clearing and timber harvesting shall be permitted to be undertaken only in such locations and in such manner as to minimize the potential of erosion and sediment and the threat to the health, safety and welfare of neighboring property owners and the general public." So in order to grant this permit you'll need to make a finding that this has been minimized for erosion and sediment control as well as to the affect on the public health, safety and welfare for both neighboring property owners and the general public. If you were to deny the permit you would need to make a finding that they haven't met that standard.

CHAIRMAN EWASUTYN: Okay. And the reports that we have, would they support a decision making?

MR. CORDISCO: The reports that you have actually, and the comments that you received from the Board's Consulting

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Engineer and throughout this process have shown that the applicant, as far as the technical concerns, are addressed -- have been addressed.

CHAIRMAN EWASUTYN: So is that part of what you were discussing with SEQRA at this particular point?

MR. CORDISCO: Yes. Yes, sir. As well as the other standards.

The real relevant issue that the Board has to decide is whether or not there has been a threat to the health, safety and welfare of neighboring property owners.

CHAIRMAN EWASUTYN: And in reference to the fact that right now there isn't an existing active building permit before the Town Building Department, can we align that with any conditions of approval?

MR. CORDISCO: Yes. So the building permit for the pool had been rescinded. There's also a need for a building permit in connection with the

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septic system. So if the Board decides to grant this permit, my recommendation would be to include as special conditions that the building permit must be obtained and all conditions satisfied through the code enforcement officer in connection with those open items.

CHAIRMAN EWASUTYN: Is that before or after the approval of the clearing and grading or is that in conjunction with it?

MR. CORDISCO: It would be necessarily in conjunction with it because there are a number of items that if this project was to go forward, then the removal of material and the stabilization of those slopes would have to happen concurrently with closing out of the building permit.

As I said, the building permit has been rescinded. I'm sure that if the project is going to go forward, the ultimate goal for the applicant is to obtain a certificate of occupancy for the

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pool and to closeout any open building permit items that they have.

CHAIRMAN EWASUTYN: Further discussion from the public?

(No response.)

CHAIRMAN EWASUTYN: There being no further discussion from the public, I'll move for a motion to close the public hearing on the Hadid Site Plan and for the clearing and grading referred to by Dominic Cordisco, Planning Board Attorney, to speak with us on the conditions for granting the clearing and grading. Dominic.

MR. CORDISCO: The first item for a motion would be to close the public hearing. The second item would be for the consideration of a negative declaration under SEQRA.

CHAIRMAN EWASUTYN: Would someone then move for a motion to close the public hearing on the Hadid Site Plan and declare a negative declaration?

MR. GALLI: So moved for the

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closing of the public hearing.

MS. DeLUCA: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli, a second by Stephanie DeLuca. May I please have a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Would someone make a motion to declare a negative declaration on the clearing and grading application for Hadid Site Plan located on 34 Susan Drive?

MR. MENNERICH: Just a question.

Can that be prefaced on the conditions that have been discussed by our attorney?

CHAIRMAN EWASUTYN: As far as the conditions being that no action would be taken until a C of O was granted on the

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pool from the Building Department I think is what he said.

MR. MENNERICH: Mm'hm'.

CHAIRMAN EWASUTYN: Dominic?

MR. CORDISCO: Not that no action could be taken but it would be a condition of the approval so that the applicant would have to satisfy, obtain and ultimately closeout the building permits for the pool and for the septic system. That's really a condition of the approval rather than SEQRA.

The SEQRA issue is whether or not you're going to adopt a negative declaration which would complete the environmental review for this project. Your only other alternative under SEQRA is to adopt a positive declaration which would trigger the need for an environmental impact study for this project.

MR. HINES: The applicant has submitted a short environmental assessment form for the project. I would recommend

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if the Board is going to consider a negative declaration, that we review the Part 2 of that form. I know the Board Members all have that. If the Board wishes, I could go through the Part 2 of the form at this time to put that on the record.

CHAIRMAN EWASUTYN: Please do that.

MR. HINES: So the applicant has identified that the proposed project consists of raising existing grades in the backyard by up to 20 feet, but has since been reduced, although the finished grades near the pool remain the same, for installation of an in-ground swimming pool and the addition of a new septic field.

They did submit a short environmental assessment form which was filled out on the DEC's interactive website. The project did identify potential environmental impacts to threatened or endangered species, two of which are fish species found in the Hudson

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River, the Atlantic and Short Nose Sturgeon, and the Indiana Bat. The project does not involve any substantial tree clearing for impacts to the Indiana bat.

Part 2 identifies will proposed action create a material conflict with adopted land use plans or zoning. We would recommend that that be a no or a small impact.

Number 2 -- if the Board has any suggestions on these, please weigh in. Will the project result in an action of change of use or intensity of use of land. We're suggesting that based on the size of the project, that that would be a small or a no impact.

Will the project propose or impair the character or quality of the existing community. We're suggesting that that would be a small to moderate -- small impact.

Will proposed action impact the environmental characteristics that cause

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the establishment of a critical environmental area. The project is not located in a critical environmental area.

Will the proposed action result in an adverse change in the existing level of traffic, affect the existing infrastructure or mass transit. We're suggesting that's a no.

Will the project cause an action to increase the use of energy and fails to incorporate reasonable available energy conservation or renewal of energy -- renewal energy opportunities. That's a no.

Will proposed project impact existing public or private water supplies, public or private wastewater treatment facilities. The project does require the relocation of the individual septic system on the residential structure but we don't -- we would suggest that that doesn't rise to a significant environmental impact, so that would be a no.

Will proposed action impair the

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character or quality of important historic and archeological, architectural or aesthetic resources. The environmental assessment form does not identify any of those resources based on the DEC's website.

Will proposed action result in an adverse change to natural resources, wetlands, water volumes, groundwater, air quality, flora or fauna. We're suggesting that that would be a no.

Will proposed action result in an increase in the potential for erosion, flooding or drainage problems. Based on the scale of the project, we would identify that as a no or a small impact.

Will proposed project create a hazard to environmental resources or human health. Based on the geotechnical reports by the applicant's consultant as well as the Town's geotechnical consultant, we're suggesting that would be a no.

If the Board concurs with that, I think they would be in a position to adopt

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a negative declaration.

CHAIRMAN EWASUTYN: Questions or comments from Board Members? Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Okay. So would someone make a motion, based upon the discussion that we had with Pat Hines with McGoey, Hauser & Edsall, in completing Part 2 of the EAF, make a motion to declare a negative declaration on the Hadid Site Plan?

MR. GALLI: So moved.

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

(No response.)

CHAIRMAN EWASUTYN: Dominic, the alternative is if we don't declare a negative declaration we have to positive dec it and do a DEIS?

MR. CORDISCO: That is correct.

CHAIRMAN EWASUTYN: One more time. We have a motion by Frank Galli.

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Do we have a second?

(No response.)

CHAIRMAN EWASUTYN: All right then. Let the record show that the Planning Board would not declare a negative declaration.

Again, Dominic, the verbiage, request a positive declaration?

MR. CORDISCO: Yes. If the Board finds that there's a significant impact to the environment in connection with this, and based on the criteria that Mr. Hines went through with the Part 2 EAF, the option would be for the Board to declare a positive declaration and require preparation of an environmental impact statement.

CHAIRMAN EWASUTYN: Would someone make a motion to declare a positive declaration and require a DEIS?

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli to declare a positive declaration.

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MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a second by Ken Mennerich. Can I have a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Let the record show that the Planning Board declared a positive declaration and a DEIS to then be brought forward.

John, do you want to add to that?

MR. CAPPELLO: I respectfully disagree with the Board. I believe this is beyond what is there. But then if the Board requests a positive declaration, then you're required to tell me what you want us to do beyond the geotechnical study and what issues we have to study further to allow you to make a decision on this. That would be detailed in a scoping

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outline. I would request that the Board schedule that and provide that to us, because other than a geotechnical report on the impact of this fill, I don't know what other information this Board would need to be able to make a decision on this matter.

CHAIRMAN EWASUTYN: Board Members, in general do you have any input to start with or offer John on this question that he raises?

MR. BROWNE: It may be a small point. In the discussion of impacts and so on, the visual impact, community, my opinion, my opinion, is that community is everyone and one or two. It doesn't have to be a huge, the whole Town thing. Okay. So from my perspective, when you talk about visual impact, you're talking about the neighbors and all the surrounding community, not just the surrounding community and eliminate the neighbors. So that's my opinion.

MR. CAPPELLO: What would you

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like to see? Would you like to see an analysis of the impact of this?

MR. BROWNE: I would like to see an analysis of before and after, what the impacts actually are, what occurred. I personally have a huge problem with the fact that what I bought I no longer can enjoy. I have a big problem with that. To me that's a major impact for visual.

MR. HINES: You would be suggesting -- under item 3, will proposed action impair the character or quality of the existing community, you would suggest that to be a moderate to large impact?

MR. BROWNE: I think so. Considering that when you talk about community you're not talking about the extended outside community like where I live over on Pressler Road. I'm talking about the community immediately surrounding this situation.

MR. CAPPELLO: Can we then discuss the fact that there's no restrictive covenants in here that would

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restrict anybody in this neighborhood
from --

MR. BROWNE: I'm not talking
about covenants.

MR. CAPPELLO: You're talking
about the viewshed. I'm asking what I
need to demonstrate to you, because we can
plant evergreens along the property line
that totally blocks someone's view. It's
absolutely permitted. We can construct
this with 1,500 cubic yards of fill and
that would not require a permit from this
Board. In the analysis we're going to
provide, that may have just as much visual
impacts. That is what you're weighing
here, not whether you think this choice by
this homeowner to build a pool on their
property, which they are permitted to do,
and they are permitted to do subject to
getting a grading permit. This is not
something that is --

MR. BROWNE: The visual impacts
are very subjective. Very subjective.
There's not a hard core line that says

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this is good and that's bad. It's very subjective. I'm looking for input on that. Okay.

MR. CAPPELLO: All right. Thank you. We will provide a report on that.

I think the Board, and Dominic will tell you, it has to do -- if you did positive dec it you have to do formal scoping. It's required.

MR. HINES: The other issue the Board discussed, while we suggested it be a small impact, and we did hear from the neighbor, will the proposed action result in an increase for potential erosion, flooding or drainage problems. I know the Board has addressed that in the past, too. I think if you're going to positive dec that, you may want to have additional items in that Part 2 that we went over that would be concerns of the Board.

MR. CAPPELLO: What I would ask then is the Board schedule -- I think you're required to do public scoping.

MR. CORDISCO: If I may. Scoping

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is required. The process is for the applicant to prepare a draft scope, submit that to the Board. The Board will then review it and add to it as it sees fit. Once the Board has reviewed the draft scope and it's in shape for public consumption, then the scoping session would be scheduled. This is a scope for the EIS, so it determines basically what is going to be included in the Draft EIS. That would be the process, that the applicant prepares the initial draft of the scope.

MR. CAPPELLO: We will have that shortly.

CHAIRMAN EWASUTYN: Let the record show for an item that's positive dec, that there is a fee structure set up for that. The fee structure, when you positive dec an item, is \$7,500. I think to coincide with the process we will need to have the funds to cover that review process.

MR. CAPPELLO: Okay.

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CHAIRMAN EWASUTYN: Are we
covered? Anything else?

(No response.)

CHAIRMAN EWASUTYN: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of November
2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

MONARCH DRIVE SENIOR HOUSING
(2019-28)

Monarch Drive
Section 103; Block 7; Lot 18
R Zone

----- X

MULTI-FAMILY SENIOR HOUSING
SITE PLAN & LOT LINE CHANGE

Date: November 4, 2021
Time: 7:41 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO &
JAY SAMUELSON

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN EWASUTYN: Third item of business this evening is the Monarch Drive Senior Housing project. It's a lot line change for a multi-family senior housing site plan. It's located on Monarch Drive in an R Zone. It's being represented by Engineering & Surveying Properties.

MR. CAPPELLO: John Cappello again for the applicant. I want to start out with at the last meeting the Board had asked for copies of the senior housing study. We do have copies. Do you want me to pass them out individually?

CHAIRMAN EWASUTYN: I would prefer if -- they were looked to be dropped off the other day. Yesterday I said they were too late. If you want to do it now. I prefer not to have handouts at the meeting. If that's what you want to do, John. It's already here. We'll take them. It gets too convoluted, the last minute at the meeting. If that were the case I would have said leave them when you tried dropping them off the other day.

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MR. CAPPELLO: I didn't. I was handed -- if you want me to bring them tomorrow I will.

CHAIRMAN EWASUTYN: That's fine. You have your own agenda and I understand that. Pat Hines gets one. Make sure Jim Campbell gets one.

MR. CAPPELLO: Good evening, everyone. As you recall, at the last meeting we were here there was some discussion regarding the appropriate setbacks for this development. We went back to clarify. There are some areas where it said 75 feet, some areas where we called it a rear yard. Given the idiosyncrasies of the senior overlay which doesn't have any specific bulk requirements, as the ZBA noticed. We did, however, reflect, and I think that's what was a little confusing, there are specific bulk requirements within other areas of the code that are not on the bulk tables that do apply to this use that we're providing. One of them is because this

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portion of the property here is adjacent.
This right here is the district line.
This property is zoned in the B Zoning
District and the property to the --
because it's a triangle, I don't know if
you would call this to the rear, but
further down 52 is also zoned --

MR. HINES: Don't call that the
rear.

MR. CAPPELLO: Okay.

MR. SAMUELSON: That's the side
yard.

MR. CAPPELLO: This area here is
zoned Business as well, B Zoning District.
This area off of Monarch Drive is zoned
Residential up to here. So this line here
provides a 75 foot yard as required by
your code in your transitional sections on
zoning -- on buffers and yards between
Residential and Business districts.

To further complicate it, it's a
little bit different for senior housing
where it has two figures and it says the
lesser of. The lesser of being 75 feet.

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So there is a 75 foot yard all across where this property touches the Residential zoning district.

There are also separate and distinct setback requirements from a State road, which we now provide, and that's a 60 foot setback from New York State Route 52, which we provide here.

For the bank parcel which is not a senior overlay, we provide the 40-foot front yard setback from Monarch Drive, the 60 from Route 52, the 15 foot side yard setback choosing 52 as the front yard, and then the 30 foot rear yard setback. The rest of the setback we provide here is 40 feet. Whether you call it rear, side, whatever, it's a yard and we provided it, just to be consistent, at 40 feet. So we submitted that again, and I believe it's been reviewed.

Now that we're hopefully passed that, we're just looking for the Board to begin identifying the environmental issues you want us to discuss. We know traffic

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certainly would be an issue.

As far as fire safety and access, I know that was raised. At the last minute the applicant has contacted the fire department. I believe on the 17th he's scheduled to sit down with the board and discuss -- and look at the plans.

I think there are also a couple of revisions that have been made.

Were they made as part of this submission or are they being made?

MR. SAMUELSON: Good evening. Jay Samuelson, Engineering Properties.

The only minor revisions made were to show the gravel access roads required by the fire code to the sides and rear of the building, along with an access from 52. Those are the only changes that were made.

MR. CAPPELLO: Then we will present those and meet with the fire department to see if they have any additional comments that we could reflect in our next submission.

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So really the purpose here today is to get any additional comments from the Board. You know, especially as it relates to additional studies or additional reports.

We did receive -- that's on the other one. We received traffic comments. We are prepared to begin responding.

What we would hope to do is prepare for you an expanded Part 3 EAF which would include all these reports and studies for you to consider. Hopefully you would be able to issue a negative declaration based upon that.

CHAIRMAN EWASUTYN: John, where do we stand with the height of the building? Did they come to a --

MR. CAPPELLO: The ZBA did say that's yours. What we're hoping is once we give you the visual analysis, the traffic analysis, the fire access analysis, that you will be able to determine, based upon your environmental review and review of everything, that 46.8

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feet to the tip is acceptable. But, you know, from those code provisions and from the ZBA's determination, since the code is silent on the height for seniors or -- either senior citizen developments or affordable housing developments, that it is the Planning Board's authority to issue. I would reflect that if you look at the B Zoning District there are uses such as hotels in this district that will be permitted to be built up to 50 feet. There are also several other uses that are lower.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No. I think they addressed the public safety part of it that we had a concern about. At our workshop meeting we were talking about that, about meeting with the fire district. I think you addressed that. That's one of the concerns that I had.

CHAIRMAN EWASUTYN: Stephanie DeLuca?

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MS. DeLUCA: I have to agree with Frank, the concern for the fire safety issues.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I was glad to hear that there will be some information on the visual analysis that you'll be providing to us.

MR. CAPPELLO: The Board, as part of that, if there's any particular viewshed or, you know, any approach, if you could either have your consultants provide it to us or tell us now.

CHAIRMAN EWASUTYN: Would you mind if we told you now?

MR. CAPPELLO: No.

CHAIRMAN EWASUTYN: Thank you. Ken Mennerich, your concerns?

MR. MENNERICH: I think definitely heading east on Route 52, the view looking up, it will be a natural draw for people to be looking in that direction as they're making the curve on Route 52.

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I also think that the view from people heading west on Route 52 should also be looked at. That one is maybe not as big a concern.

CHAIRMAN EWASUTYN: Views from Monarch Drive, do you have a concern about that? From the residents on Monarch Drive?

MR. MENNERICH: For the residential areas in general it's a concern. I don't know -- certainly the building is going to be way out of proportion in comparison to the buildings in the residential areas. It will come up at public hearings.

MR. CAPPELLO: We can provide some viewsheds from Monarch Drive looking this way and then from this area where the homes are located.

MR. MENNERICH: That would be good.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: My major concern at this point in the process was the

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emergency access and so on. From what you reported, you're going to be talking with the folks and getting all that resolved, or some direction on it.

MR. CAPPELLO: We will include a section in another submission addressing that specifically.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: The same as Cliff. My concern was the safety of the emergency access around the perimeter of the buildings.

Also, you've had this report for over a year. There's no excuse why we got it tonight at the last moment. It was published in November of 2020.

MR. CAPPELLO: It was submitted to the Town Board.

MR. DOMINICK: We don't like things at the last minute. We like to digest it, read it, give you a fair chance.

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Moving on. Every time the site has come here I've mentioned generators for the safety of the occupants. This is senior housing. Many of your occupants or residents will have some type of medical device or equipment that might need power. We know we get the hundred year storms every other month. Let's look at the generators, putting in some safety equipment for the folks.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Ditto on the generators.

I'm concerned about the three stories up and fire escapes. One way or another for that height.

Like we talked at work session, the lower building, there's no access in the back for any fire truck or anything with the buildings. God forbid they had to get somebody off a balcony or something.

MR. HINES: I think they said they may have added some fire access

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roads.

MR. SAMUELSON: Yes.

MR. CAPPELLO: Yes. We're going to have a section in there that will discuss all the emergency access. We'll include the generators and fire access, ambulance and the entire -- we understand it's been an issue that's been raised.

CHAIRMAN EWASUTYN: Jim Campbell, do you have anything to add?

MR. CAMPBELL: Nothing to add at this time.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: I took a look at the zoning analysis that they gave us for the rear yards that were identified. I concur with Mr. Cappello's analysis citing those code sections, that those do meet those sections of the code.

As far as studies for the expanded environmental, you talked about traffic, visual. We'll incorporate the stormwater into that.

I just note that the long form

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EAF identifies potential habitat for Indiana Bats. It does identify potential for archeological sites as well, which should be incorporated into those expanded studies.

MR. SAMUELSON: Yes. We had submitted a draft outline for the previous month's meeting. All those items that you just discussed are in that draft outline.

CHAIRMAN EWASUTYN: Thank you.

So I think the conversation with the Board now is the verbiage for okaying the conceptual plan.

MR. CORDISCO: Yes. So the procedural step that's in front of you tonight is to consider whether or not to issue a favorable report. The section of the code is Chapter 185 Section 57(B)(2). It says that the Planning Board shall review the sketch plan and related documents and shall render either a favorable report or an unfavorable report to the applicant. The favorable report shall in no way imply immediate or

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eventual approval status, it's merely intended to convey to the applicant the relative assurance that the development as conveyed is basically conforming to the master plan of the Town of Newburgh and its implementing land use regulations with or without suggested modifications.

CHAIRMAN EWASUTYN: I'll poll the Board Members. What would you like to offer?

MR. GALLI: That's fine.

CHAIRMAN EWASUTYN: A favorable report?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: Yes.

MR. MENNERICH: Favorable.

MR. BROWNE: Favorable.

MR. DOMINICK: A favorable report.

MR. WARD: A favorable report.

CHAIRMAN EWASUTYN: Let the record show that the Planning Board issued a favorable report on the Monarch Drive

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Senior Housing concept plan.

Thank you.

MR. CAPPELLO: Thank you very
much.

(Time noted: 8:00 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of November
2021.

Michelle Conero

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

----- X
In the Matter of

POLO CLUB
(2018-12)

Route 300 & Jeanne Drive
Section 39; Block 1; Lots 1 & 2.12
R-3 Zone

----- X

242 UNIT MULTI-FAMILY W/SENIOR HOUSING
SITE PLAN - CONDITIONAL FINAL APPROVAL

Date: November 4, 2021
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL

APPLICANT'S REPRESENTATIVE: JAY SAMUELSON

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN EWASUTYN: The fourth item of business this evening is the Polo Club. It's a 242 unit multi-family with senior site plan.

We're here to discuss the conditional final approval that was granted.

It's located on Route 300 and Jeanne Drive. It's in an R-3 Zone. Again it's being represented by Engineering & Surveying Properties, Jay Samuelson.

MR. SAMUELSON: Good evening. For the record, Jay Samuelson, Engineering Properties.

As the Chairman said, this has received conditional approval, going through our outside agencies, and the applicant has entered into a contract with an actual developer to build it.

We've made some minor changes to the plan. I'm here to go over them tonight and give you an update as to where we are with the outside agencies.

The first one being our entrance.

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Our original entrance had a full boulevard out to Route 300, providing a solo lane in and a solo lane out. Through our review with the DOT, they asked us to narrow that entrance. They did not want that wide of a pavement at the very entrance. We have narrowed that down to 30 feet. So it's a 30 foot entrance that will eventually turn into the boulevard island as we get further back into the site. On this plan what I have here is the red is what the original one was. We can see the original boulevard came all the out, way out to the street. The new one will start back here. It will only be this small section in the front. The boulevard for the remainder of the site will remain the same. We still have the emergency access out this way as well. We still have our two points of access. That was our first change.

The second change is, if you remember, we had two garage buildings that stuck out off the rear of the site. This resulted in a very large fill, some large

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retaining walls in the back. That has been changed to change the garage to face along the access road rather than pulling off into the parking lot. We have one garage here. We have also added a second garage here. So we still have about the same number of garage spaces between what was originally here between these two spaces now.

The third change was these three buildings have basically kind of rotated a bit. This larger building that was here -- actually, the larger building that was here is now here. These two small buildings, this one has been shifted down a little bit and the little one that was here is now placed over there. All we did is kind of rotate those buildings around to help with the grade around this area. Again, we were able to change some grading back here so we can eliminate some steep slopes, eliminate some retaining walls.

The last change was we do have some wetland disturbance so we do have to

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do mitigation through the Army Corp.
What was originally proposed here in the back, there were some issues with crossing it or trying to gain other access. The mitigation areas have been revised to be on the project side of the wetland, so none of this wetland will be disturbed. We've moved the mitigation areas to this side of the wetland to basically create and make these wetlands a little bit larger.

Those are a summary of the changes.

Just to give you a quick update where we are. We have gone through two rounds of comments with the Army Corp. We believe that we will be getting approval from them within the next couple weeks. It was resubmitted in early September, so they have 45 days to respond.

With the DOT, we've gone through a couple revisions with them. We have four small comments outstanding. There is

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a section of property that we do need to donate to the DOT to accommodate the turn lanes that are being proposed. That process is going through the DOT's land acquisition program right now. We're waiting and working out some minor details with that. They had a couple comments on striping, some work zone comments and the work zone protection of traffic, some minor revision to that, and they needed a cost estimate. Those are the minor things we're working on getting back to them. That's where we are.

I just wanted to explain what the changes are. If you have any questions, we'd be happy to answer them.

CHAIRMAN EWASUTYN: Questions from Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Stephanie DeLuca?

MS. DeLUCA: Could you just explain the purposes of the garages, whether it's for storage, for cars?

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MR. SAMUELSON: These are for cars. These garages here were originally so that residents could rent them and use them as an interior garage. These were separate structures. Because they stuck out so far, it created a very large flat area that we had to retain. So we changed that to be parallel to the road. We were able to grade this area rather than use it as a retaining wall.

MS. DeLUCA: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm good. Thank you.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: So the action before us tonight is it's a field change,

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or how would you describe it?

MR. HINES: We brought it before the Board because as a field change -- there's no construction going on right now. It's kind of in the planning stages. The resolution says that you can only build what's shown on the plans. That's what's depicted. I think we would be approving an amended site plan at this point for this project. There were a whole bunch of changes. Oftentimes I'll bring something to the Board and say this is a field change. Normally that's when things are under construction. When outside agencies are involved, the DOT is changing things, the Army Corp wetlands are changing. The site plan isn't stamped yet so it's not really amended site plan but it's kind of a progress status right here. I think you would be adopting this plan into the resolution.

I'll defer to Dominic on how we procedurally do that.

MR. CORDISCO: It's an

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interesting spot. As Pat had mentioned, if I may Mr. Chairman, the plan itself has not -- the plan that was previously approved has not been signed yet, so it's not even really an amended approval of the site plan. I'm sure the applicant is seeking a resolution of this Board, a written resolution, that reflects this particular plan so that this plan can then, you know, be shown as approved and addresses the concern regarding building what's shown on the plan.

My recommendation actually would be for the Board to consider amending the resolution of approval to substitute this plan set for the prior plan set without having to go through a full amended site plan application for these particular changes.

CHAIRMAN EWASUTYN: Okay.

Questions?

(No response.)

CHAIRMAN EWASUTYN: Would someone make a motion then to amend the resolution

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that currently exists and to substitute the plan that's before us?

MR. DOMINICK: I'll make the motion.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick. I have a second by John Ward. May I please have a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

MR. HINES: We'll need those plans.

CHAIRMAN EWASUTYN: The DOT and Town in reference to some of these improvements with Route 32 also.

MR. SAMUELSON: Yes.

MR. WEINBERG: We still have an open issue with the fair share

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requirements. That, and there is an open issue with the acceptance of the sewer plan. Those are the two open issues with the Town Board.

CHAIRMAN EWASUTYN: Thank you.

MR. HINES: Jay, we'll need a list of the revision dates on the plans.

MR. SAMUELSON: Yes. I will get you them.

MR. HINES: I think Dominic needs that more than me.

MR. SAMUELSON: I will get them to him.

(Time noted: 8:08 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of November
2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

NORTHEAST BUSINESS CENTER
(2021-28)

500, 700 & 900 Corporate Boulevard
Section 95; Block 1; Lot 1.22
IB Zone

----- X

INITIAL APPEARANCE
SITE PLAN

Date: November 4, 2021
Time: 8:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL

APPLICANT'S REPRESENTATIVE: CONNOR McCORMACK

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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2 CHAIRMAN EWASUTYN: The fifth
3 item of business this evening is Northeast
4 Business Center. It's in an initial
5 appearance for a site plan, located in an
6 IB Zone. It's being represented by
7 Colliers Engineering & Design.

8 MR. McCORMACK: Good evening,
9 Members of the Board. For the record, my
10 name is Connor McCormack with Colliers
11 Engineering & Design, formerly Maser
12 Consulting.

13 So the project that I'm
14 presenting today is tax lot 95-1-1.22.
15 I'm here representing the applicant, JKC
16 700, LLC, the owner and applicant of the
17 property.

18 The existing property is 14.86
19 acres in size. It's located within the IB,
20 Interchange Business, Zoning District.
21 I'm sure the Board is aware, but it's
22 located on Corporate Boulevard as part of
23 the larger industrial park. Adjacent to
24 the property is again the IB Zone north,
25 east and south of it. It's also

1
2 surrounded by Business to the southwest
3 and then a Residential zone to the
4 northwest. The property corner itself is
5 located approximately 550 feet north of
6 the intersection of Corporate Boulevard
7 and 17K.

8 There are two existing buildings
9 on the site, here and here, making up
10 approximately 72,000 square feet. There
11 are 264 existing spaces.

12 The site is serviced by sewer and
13 water services. There's a large
14 stormwater pond that was constructed
15 during the initial building period.

16 Two driveways exist onto
17 Corporate Boulevard that are proposed to
18 remain unchanged.

19 If I could just dive back I guess
20 into the history of the project. Most
21 recently this project was approved -- back
22 in 2006 it got signed plans for a 48,000
23 square foot office building. That
24 building required 403 parking spaces and
25 had a total impervious area of about 7.6

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acres.

With this new application we're trying to keep in kind with that prior one as much as possible with the main change being the use of the building. This new building, I know it was a comment from Pat's office, we called it flex use. In the zoning table, though, it was referenced as a warehouse, storage and transportation facility, including truck and bus terminal, not within 500 feet of 17K. All the zoning on there does reflect that.

Proposed to be added are additional parking spaces which will produce a total of 273. The building will have 12 trailer loading docks.

One thing noted in our traffic report that we prepared is the change in use from office to warehouse, it's going to generate less trips. So there would be a decreased impact there.

Additionally, with less need for parking, the site is greener than it was

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previously approved by about a quarter of an acre.

A lot of the utility connections are going to be in kind with the previous approval, including connecting to the on-site water main that's in front of the existing building. The sewer that runs into the site would tie in within our site for both utilities and then connect to the existing stormwater pond that's servicing the property.

One of the things to note here is while they didn't construct the prior approval, they did apply for a stormwater SPDES permit. They do have an active permit that they kept open the entire time. I did see some comments on that from Pat's office that we'll review and work through.

Just a review of the submitted materials. Preliminary site plan, SWPPP, a full application, a long EAF and a traffic report.

So, you know, thank you for

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letting me present. I'd be happy to answer any questions that the Board has.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Not yet.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: No.

CHAIRMAN EWASUTYN: When you say they, who is they?

MR. McCORMACK: The Members of the Board.

CHAIRMAN EWASUTYN: When you say they as far as the permits, stormwater, that they still have. Who is they?

MR. McCORMACK: Sorry. The applicant.

CHAIRMAN EWASUTYN: Is the applicant the same applicant --

MR. McCORMACK: It's the same.

CHAIRMAN EWASUTYN: I believe in those days it was a high-tech building that was -- that was the conversation. It was a high-tech building.

MR. McCORMACK: The office.

CHAIRMAN EWASUTYN: I think the

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conversation was a high-tech building.

MR. HINES: The project name was even that. I think it was called High-Tech Development.

MR. McCORMACK: It was.

CHAIRMAN EWASUTYN: Thank you. We'll put everything into focus at this point.

Do you have a tenant for this use?

MR. McCORMACK: We do not at this time.

CHAIRMAN EWASUTYN: And the people that seem to park on this side from those buildings, they'll no longer park there?

MR. McCORMACK: We haven't assigned spaces for each individual building. Being out there myself, obviously the ones that are out in front get utilized more. These ones around the side I haven't seen utilized. It's the same with these ones in the rear. It's pretty distributed as I've seen it. There

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were some comments from Ken's office regarding a parking analysis. We can review that and respond to it. I just got those today so I didn't fully digest that.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing more at this time.

MR. DOMINICK: Nothing.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: What are the hours it will be?

MR. McCORMACK: I think the hours I had on the long EAF was 7 to 7. That's approximate. We would know better when we have an end user.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Jim Campbell, Code Compliance?

MR. CAMPBELL: No comments at this time.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Our first comment is just we've been seeing this flex building title put on everything. We don't have

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that use in the zoning. You did appropriately identify it in the bulk tables. We don't have flex use buildings.

A City of Newburgh flow acceptance letter will be required.

They submitted a full environmental assessment form which did identify potential habitat for two species, the Indiana Bat and the Upland Sandpiper. We'll need reports on that. It also identified the presence of a national historic site which will need to be addressed.

We're suggesting that with the Board's permission we could do an intent for lead agency circulation.

The project is located in the City of Newburgh watershed. Additional stormwater controls are typically required as part of the Town of Newburgh policy. As you develop your stormwater pollution prevention plan, realizing there are existing stormwater management facilities, the City of Newburgh typically will

1
2 comment on stormwater management for
3 projects in their Washington Lake
4 watershed. We typically, as a policy of
5 the Board, require 10 percent additional
6 water quality treatment to be
7 incorporated. I know you have a
8 proprietary stormwater control device
9 proposed on the plan which may address
10 that.

11 We did receive the SWPPP and it's
12 under review.

13 I did note that you identified
14 2007 coverage which identifies the plan --
15 which was issued for an office space use.
16 The current proposal has a warehouse
17 component. I believe those loading docks
18 are now considered stormwater hotspots.
19 That will need to be addressed in that
20 stormwater management plan as well.

21 We'll need a stormwater
22 facilities control agreement. I don't
23 know if at the time in 2006 when you were
24 here that was required or provided. If
25 there isn't one for the site, one will be

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required.

We did comment on the existing stormwater permit, to make sure it's still valid and who it's issued to. I don't know if the entities have changed hands. We would like to get a copy of that.

We have some comments on the stormwater plan as well.

I think the Board would be in a position tonight to declare lead agency and begin that circulation.

CHAIRMAN EWASUTYN: Pat, you did say this was a Type 1 action?

MR. HINES: I did say that but it escapes me why I said that. The building is not 100,000 square feet. It's less than --

CHAIRMAN EWASUTYN: 50.

MR. HINES: I did say that in my comments but it escapes me why I said that.

MR. CORDISCO: If I may. The presence of the national historic site --

MR. HINES: Okay.

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MR. CORDISCO: -- is an
accelerant.

MR. HINES: It's greater than 2.5
acres. We should type it as a Type 1
action.

CHAIRMAN EWASUTYN: Where is
that, Dominic, located?

MR. CORDISCO: I'm not sure where
the national historic site is located.

MR. HINES: It came up on the
DEC's database. You'd have to contact
them to identify it.

MR. McCORMACK: I could pull it
up if you need me to.

MR. HINES: I don't know if it
named it, though.

MR. McCORMACK: Belknap Stone
House.

MR. GALLI: By the veterinarian.

MR. McCORMACK: It was identified
as the second oldest house in Newburgh.

CHAIRMAN EWASUTYN: What was it
originally called?

MR. HINES: Belknap Stone House.

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MR. DOMINICK: Wasn't it
Fletcher?

MR. HINES: It's within 2,000
feet.

CHAIRMAN EWASUTYN: All right.
So then this is a Type 1 action under
SEQRA. Would someone make a motion to
declare lead agency for this?

MR. WARD: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: I have a
motion by John Ward. I have a second by
Dave Dominick. Can I please have a roll
call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Dominic,
since the plans that they have submitted
are rather detailed plans except for

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landscaping, but I believe you'll be working on a landscape plan --

MR. McCORMACK: We submitted a landscape plan.

CHAIRMAN EWASUTYN: I didn't notice it.

MR. McCORMACK: I do have it right here. Just when we had spoken it wasn't submitted.

CHAIRMAN EWASUTYN: That's my oversight.

So back to my other question. Dominic, the detailed plans, should we still grant a favorable approval for the Northeast Business Center or are these site plans beyond that?

MR. CORDISCO: They're actually well developed at this point as far as that goes, and it shows zoning compliance. My recommendation would be, since this is the first appearance that they've made, that the Board consider issuing a favorable report.

CHAIRMAN EWASUTYN: Thank you.

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Would someone make a motion to grant a favorable report for the Northeast Business Center?

MR. WARD: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward. I have a second by Frank Galli. May I please have a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Thank you.

MR. McCORMACK: Can I just ask one question? We have been calling this an amended site plan, kind of linking it to that previous application. I don't know if any of those negative -- like the negative dec for that project would be applicable for anything here or you don't

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think so? Just more for --

MR. CORDISCO: I mean it's up to the Board. The SEQRA information is always helpful for comparison purposes. This is a different project, it's a different use, and so it's going to be a limited utility. It's not the same project. My suggestion would be that it's not treated as an amended plan. That's up to the Board.

CHAIRMAN EWASUTYN: Okay. We'll follow the footsteps that were laid out by our Attorney, Dominic Cordisco.

MR. HINES: This is also its initial appearance. I'll work with Connor on getting the initial notices out.

MR. McCORMACK: Okay. Thank you.

(Time noted: 8:32 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of November
2021.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

UNITY PLACE WAREHOUSE
(2021-29)

Old Little Britain Road & Unity Place
Section 97; Block 2; Lots 14.1 & 19.12
IB Zone

----- X

INITIAL APPEARANCE
SITE PLAN

Date: November 4, 2021
Time: 8:32 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO,
DENNIS ROCKS & ELIOT SPITZER

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN EWASUTYN: Our last item of Board Business this evening is the Unity Place Warehouse. It's an initial appearance for a site plan. It's located on the northwest corner of Old Little Britain Road and Unity Way. It's in an IB Zone. It's being represented by Brooker Engineering.

MR. CAPPELLO: Good evening, everyone. I'm here this evening with Dennis Rocks From Brooker Engineering and Eliot Spitzer, one of the principals -- not that Eliot Spitzer, but this Eliot Spitzer, one of the principals of the entity seeking to develop a parcel which is on Old Little Britain Road and Unity Place.

I'll give you some orientation. This is the Kohl's. There's two lots here. Back in here is the Kohl's and PetSmart. Kohl's actually is right along the property line here. Here is the empty lot that hopefully will be developed. At one point that was part of the Lloyd's

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remediation and is still being remediated.

The applicant is proposing a 165,000 square foot warehouse on the corner here. It's permitted in the zoning district.

We did receive Mr. Hines' letter and also a letter from your traffic consultant.

As far as the traffic consultant goes, I want to let you know that the applicant has retained Phil Grealy from -- I was going to say Maser, but Colliers Engineering who will be reviewing Mr. Wersted's comments and preparing a report for the Board. We understand traffic will be a big issue here.

Also, as far as the zoning around the area, Pat did indicate that this is the reservoir across the street, that I didn't know from the zoning map but it apparently is zoned Residential. I had given the Board a portion of the zoning code that does exempt if you're across from a property that is owned by a

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government or municipal entity and has no residences on it, which I think probably may have been adopted with this in mind since there's so much commercial development within the Town that surrounds it on all of these sides.

There was an issue raised regarding parking in the front yard. We're going to have to look at the design guidelines, and, if necessary, we could, you know, relocate a row or potentially take out the row of parking.

I'm going to let Dennis explain the engineering aspects of the site.

The one other issue I know that was raised in the letter, there is a parcel of -- within this there is a note on a prior subdivision map, when Unity Place was created and all these lots were created, that says a proposed access and utility easement. That access and utility easement was not ever -- no specific document was ever filed. No written easement was ever filed. No offer was

1
2 made, nor were any of these lots shown on
3 the plan that would have any rights to it.
4 But even more importantly, if you were to
5 walk this easement as far as consider any
6 connection, you would walk into the rear
7 of the Kohl's building, within, you know,
8 10 feet of the site. So it would be
9 virtually impossible to ever do any
10 connection. Further complicating matters,
11 as I recall only too well, along the 15
12 foot strip of the back of the Kohl's
13 parcel and then bisecting the Kohl's and
14 Home Depot parcel is what's known as
15 Murphy's Ditch which is an emergency
16 supply to -- I don't know if it's ever
17 been used, but that 15-foot strip is
18 actually owned in fee by the City of
19 Newburgh IDA. We spent months and months
20 going through -- when we built the Kohl's
21 going through negotiations. That runs
22 along the back of the property line.
23 There's fill on there. The probability of
24 ever building an access over this parcel
25 is, you know, virtually nonexistent. I

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looked at it and I don't believe -- I believe it's in the Planning Board -- since the Planning Board put it on the subdivision map, it really was just to preserve it, that it is in the Planning Board's jurisdiction to just amend it. As we go through the process we can discuss, you know, the mechanism and hear from your attorney. But I just wanted to raise that upfront, that we are aware of that issue. To be honest with you, we potentially looked at it when we had the issue.

So with that, those are the main legal issues. I'm going to turn it over to Dennis to give you --

CHAIRMAN EWASUTYN: You had your chance. Before you start running the meeting, can I have some input?

MR. CAPPELLO: Yes, yes, yes. Sure.

CHAIRMAN EWASUTYN: I know you've been here for a long time. In another hour you'll probably be here longer than me.

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It's always pleasant to have the applicant present, Mr. Spitzer. Can you give us a presentation on how you see this working? Do you have any tenants? It would be nice to hear from you. I've listened to him all night. I do have to go home and go to sleep and I want to hear some other things ringing in my head.

MR. SPITZER: I don't know if I'm any better.

CHAIRMAN EWASUTYN: I'm sure you are.

MR. SPITZER: Thank you.

CHAIRMAN EWASUTYN: Relax. Talk to us about the project. Why did you choose this location? Do you have a tenant for it? How do you see it working?

MR. SPITZER: So we are talking to one tenant right now but it's premature. I would say we don't have a tenant as of yet.

But as far as location off of the exit, it's off of the highway. You know, we looked at the zoning. We do have other

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warehouses in the Orange County region. We have in the City of Newburgh. We have some property in Montgomery. We have some in Rockland County. We actually are working on another project in the Town as well.

CHAIRMAN EWASUTYN: This Town?

MR. SPITZER: Yes.

CHAIRMAN EWASUTYN: Okay.

MR. SPITZER: But we feel that this is a good community to be in and we're excited about this project. We feel that this would definitely be successful, would bring jobs. It would be something that can be a nice addition to the area.

CHAIRMAN EWASUTYN: Thank you. At some point in time you will have some architectural renderings to show us?

MR. SPITZER: Of course.

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

MR. CAPPELLO: Can I turn it over to Dennis now?

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MR. ROCKS: Good evening. My name is Dennis Rocks, I'm from Brooker Engineering. I'm happy to be here with you tonight and to present to you a concept plan for the Unity Place Warehouse.

So the existing site, it's a 12.8 acre site and it's a relatively flat site, which is great for a warehouse. There's quite a lot of activity for warehouses recently. I've been getting a lot of applications where there's significant topography. Just the sites are not well suited at all for a warehouse. This one happens to be very well suited. The existing site is mostly grass. It had been previously cleared.

So here we are. We're at the northwest corner of the intersection of Old Little Britain Road and Unity Place. What we have here is the warehouse here. That is the brown area. It's 162,800 square feet.

What we've done is we've laid out

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the circulation so that we tried to keep the cars and the trucks separate, which is -- that's always the best if you can do that. So what we have here is we have -- you can see the truck turning templates that we've shown. This is for the biggest potential truck, WB-67. So what we have here is we show the way the truck would enter, come around, utilize the loading dock and then potentially exit. So this is the front. This is Unity Place. This is the rear.

Here's where the loading docks are. For this plan it shows 79 loading docks and then we show another 40 spots for trailers to park.

Like I was saying, we have the parking separate. We have separate curb cuts to access the passenger car parking versus the truck. We have some parking here on the north end and some here on the south end. We need to get our hands on the Town design guidelines so we can assess how this can all be conforming

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because that is our intent. Our intent is a fully compliant plan.

The height of the building is 40 feet. We've provided the bulk table here. Like John said, it's in the IB District.

So when we came in here tonight -- when we prepared this plan, submitted our plan, our intent was fully conforming. We just need to resolve our issue here with the parking and the front yard.

Stormwater management would be subsurface, so that's going to be a key component for this project. We're going to need to assess the soils and the groundwater. That's going to drive the design. It's very important.

That's it in a nutshell. We'd be happy to take some questions, go over some comments.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Truck traffic is coming into Unity Place from 17K I imagine. right? Coming up the hill past Jehovah Witness and then down the hill

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turning in. You say it's going to come into the site and when it leaves it's going to go out on Old Little Britain Road?

MR. ROCKS: Not necessarily. That's going to be between really the traffic engineers to resolve, to figure that out. That's the way we've shown it here. When I look at the plan -- I'm not a traffic engineer, I'm a site engineer -- but to me that's the way the plan lends itself.

MR. GALLI: I know you don't know yet on traffic because you don't know who the tenant is, of course.

The building itself, you're going to make the front part of it on Unity Place. There are some residential homes. I know it's not zoned for residential but there's still some residential homes in the area. Any renderings that you're going to do to show us how it's going to look, try to dress it up, not to make it look like just a plain old warehouse.

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Make it look nice for someone that is going to look at it.

There are two residential homes in the back where all the trucks are going to be between Kohl's and the warehouse part of it, also on the rear of the place. I don't know how much landscaping you're going to have between those residences and your property there. Take that into consideration.

And then I know water doesn't run uphill. Washington Lake is right across the street. You're going to have a lot of people watching that very closely.

MR. ROCKS: Right. We understand that.

MR. GALLI: As John Cappello knows.

MR. ROCKS: It's very interesting. The proximity of this site to Washington Lake gives you a lot of scrutiny. The fact of the matter is there are requirements in place in terms of our performance standards, what we need to

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achieve for stormwater management. You know, the drainage area to Lake Washington, it's about 560 acres. This site represents about 1.8 percent of that.

MR. GALLI: I think your biggest obstacle is going to be the way the building --

MR. HINES: I don't think you're tributary to Washington Lake where you are. You're below Murphy's Ditch. It's not going there.

MR. ROCKS: This part comes down and this part goes that way.

MR. GALLI: The obstacle is going to be what the building looks like and how nice you can dress it up for what it's going to be in that area. I know it's zoned commercial and IB and all that. There's still a lot of neighborhood cars that run through that area. I know it's getting all business wise up the hill and stuff like that. Just dress it up pretty.

MR. ROCKS: Thank you.

MS. DeLUCA: Frank summed up

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pretty much my concerns as well as far as the aesthetics, what it's going to look like.

Again, also to the neighborhoods, they may take issue with that. I'd be concerned with that as well.

As far as just the heavy truck loads, I don't know who your tenant is or what they are going to be carrying, but the load on that particular street would be a concern as well. That's it.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have nothing additional.

CHAIRMAN EWASUTYN: This is a seven day a week, twenty-four hour a day operation I think you said on your EAF?

MR. ROCKS: That's the intention, yes.

CHAIRMAN EWASUTYN: No other questions.

MR. BROWNE: My concern was already voiced about the heavy traffic on

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two of the roads that right now I see very limited truck traffic on. So that's a concern for the traffic folks.

Also, just from a -- normally when I think of a warehouse I think of warehouse, I don't think of distribution center. I believe this is warehouse/distribution. It could be either one. Correct?

MR. HINES: It has a strangely large amount of passenger vehicle parking based on what we typically see with warehouses based on the square footage. I don't know if that's a user-driven issue. It has twice the parking. The required parking is 82 spaces and it has 160.

MR. BROWNE: It makes me feel like it's more of a distribution center than a "warehouse". I think of warehouse, you pull up and it stays there for four months or whatever. Distribution is constantly in and out, so there's constant traffic in and out, which also would drive more people, consequently more parking for

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workers. So I'm thinking more distribution center. Am I wrong?

MR. SPITZER: Because there's no tenant, but obviously --

MR. BROWNE: That's what you're designing for?

MR. SPITZER: Right.

MR. BROWNE: Thank you.

MR. DOMINICK: Also I feel the same as fellow Board Members, keeping traffic as much as you can to Unity Place and off Little Britain Road. It's a residential area. A lot of residents there. It cues up during key hours, just normal traffic. I know your traffic study folks will look at that as well. Try to push more on Unity Place with your business.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: The front yard setback, how far are you from Unity Place?

MR. ROCKS: So from the right-of-way we are 54.9. The requirement is 50.

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MR. WARD: Okay. And I know there's two residences behind there. Further up the road there are residences, too. Because of the trucks being there, the noise impact, lighting and visual impact with the neighbors.

MR. SPITZER: Thank you.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Jim Campbell with Code Compliance?

MR. CAMPBELL: Nothing to add at this time.

CHAIRMAN EWASUTYN: Pat Hines with McGoey, Hauser & Edsall?

MR. HINES: Our first comment just identifies the project.

We identified the utility easement. There needs to be a mechanism to eliminate that. We'll leave that up to Mr. Cappello and Mr. Cordisco to figure that one out.

Parking in the front yard setbacks, the Town of Newburgh design guidelines, I can provide them for you but

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they are on the County's website for Newburgh as well. I believe they're on Newburgh's website. The Orange County Planning website has them as well under Newburgh.

CHAIRMAN EWASUTYN: Thank you.

MR. HINES: I thought they were on our website. So those are the guidelines, and there are ways to mitigate that. The Board has accepted mitigation measures, additional screening, stonewalls.

I would look at the number of parking spaces you have. It looks like there's a lot of passenger vehicle parking spaces here based on the size of this use and the Town Code requirements. You're identifying 73 required, or 82, but there's 160 parking spaces proposed. If that could be reduced, it may help address that issue.

We identified the entire rear of the parcel as facing Unity Place, which while not very heavily traveled, it's kind

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of an entranceway to that portion of the Town. The religious facility up the road is very busy at times. So there will be traffic associated with that.

An Orange County referral is required. This one is a Type 1 action, greater than 100,000 square feet.

You've got the Indiana Bat issue on the site.

We talked about the R-3 Zone. I do realize that I put it in there because it is R-3 across the street, but I don't believe that there's going to be mitigation or buffering required from the Lake.

A City of Newburgh flow acceptance letter will be required.

Looking through the plans, it depicts existing utilities and also the houses that are anywhere near here in the area.

I noticed that the driveways are very wide for the truck access. It looks like they're 70 feet or so.

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MR. ROCKS: Yes, they are.

MR. HINES: They're really wide.

If those could be narrowed down or restricted to kind of define that area. It begs for trucks to come out swinging very wide into opposing traffic and stuff. I'll let Ken Wersted's office address that. I just wanted to bring it up.

There are wet areas on the site. We talked about it at work session. The Members are aware that there are some very wet spots out there. There's a flock of geese there every day, kind of swimming around there when it's wet. I don't know if there's any wetland impacts there but we need to take a look at that to see if there are Federal wetlands.

I think you're impacting one of the detention ponds that were created during the original subdivision, so that will have to be addressed in your stormwater.

I know you said the infiltration or the practices were going to be under

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the parking lot. I think you're going to find some groundwater issues on the site as you're taking a look at it. Just be aware we'll be looking for that.

So that's what we have. This is an initial submission. I'll work with Brooker Engineering to get the notices out as well. Within ten days of this meeting they need to notify the neighbors.

CHAIRMAN EWASUTYN: Dominic, the utility easement, do you want to discuss that now?

MR. CORDISCO: Yes. Mr. Cappello raised the utility easement issue. This was actually brought to our attention prior to the application being made.

One thing I agree on with Mr. Cappello is the likelihood of the need for this easement is nonexistent in the sense that no one is going to be utilizing the easement that was shown on the subdivision plat. The difficulty, however, is that it's an easement that's shown on a subdivision plat that's filed in the

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County Clerk's office and this Board has to look at how that is either addressed or removed in the context of this particular approval. There are different ways to handle that. I've done this myself personally on a number of different projects. I had a project in the Village of Harriman where a lot was created as part of a subdivision in a commercial development where that particular lot was reserved for stormwater but then each individual lot, as it was developed, ended up handling stormwater on their own lot, and so there was an easement and restriction created for stormwater reservation that was no longer needed. In that scenario what I had to do, which is what Jim Loeb taught me how to do, which is you have to go to the other lots and the other lot owners and get their consent that they have no present or future intention of ever utilizing that area for stormwater. That is the most conservative way, that is the way that I know, to

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remove an easement from a filed map in the County Clerk's office. Mr. Cappello has indicated that there may be other ways, and that's something that will have to play out through this process. I'm certainly willing to listen and advice the Board accordingly with different scenarios as to how that's addressed. I'm glad it was brought up now because it is an issue that does have to be addressed. You can't simply ignore an easement that's been shown on a filed plat. It may be a long lead time item, so it's good to be cognizant of it at this time.

MR. GALLI: Dominic, could the easement be moved to a different parcel where it's not affecting in the middle of the property?

MR. CORDISCO: It could be if there was a need for it. And of course it's really -- you know, it's an easement across this property that's serving other properties. So, you know, this may be something that has to be done in

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consultation, in conjunction with the neighboring lot owner. But that's an issue for the applicant to resolve.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: That was the question I was going to ask, how that could get resolved. Thank you.

MR. CAPPELLO: We'll work with Dominic and the Board.

I think I would ask, in case sometimes -- you know, any input from the Board with any of the property owners. There were so many maps filed when Unity Place was created, we'll just have to figure out which lots were on that map where this easement showed up and where they exist now. There's A, B, C and D. I mean we'll work through it.

CHAIRMAN EWASUTYN: I'm sure you will. Thank you.

So then the action before us this evening is that the Planning Board move for a motion for a favorable concept on this?

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MR. CORDISCO: It's possible, but you may want to hold off on that right now because the plan itself has parking in the front yard which doesn't meet the design code. It also doesn't show areas for stormwater, which has been noted by Mr. Hines. So it might be more prudent to wait until there's further revision of this initial concept plan.

CHAIRMAN EWASUTYN: For now we declare it as a Type 1 action and make a motion to declare lead agency?

MR. HINES: We can do that.

CHAIRMAN EWASUTYN: Would someone make that motion?

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. May I please have a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

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CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Motion
carried.

MR. CAPPELLO: Thank you very
much.

(Time noted: 8:50 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of November
2021.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

HAMMOND SUBDIVISION
(2020-08)

Request for Two 90-Day Extensions
through April 23, 2022

----- X

BOARD BUSINESS

Date: November 4, 2021
Time: 8:50 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN EWASUTYN: The last item that we have, and that's under Board Business, is the Hammond Subdivision. It's project number 20-08.

They're requesting two 90-day extensions. Their current approval is good until April 20 --

MR. HINES: We're going to extend it to then. Their current approval was October 23rd. This is the first meeting that it could be addressed.

CHAIRMAN EWASUTYN: Bring that forward.

MR. HINES: The Hammond Subdivision has a couple of conditions to address, they've been working towards those, one of which is posting of their securities. The Hammonds are actively pursuing a developer for the project. I think they have someone targeted. They have a closing date that's out a little further than they expected.

Their approvals were good until October 23rd. We're suggesting that we

1 retroactively continue those approvals
2 from October 23rd, this being the first
3 meeting since then, until April 23, 2022.
4 It may be the 24th of October when they
5 were. Whatever the day is, I went out 180
6 days and it falls on the 23rd of April.

7
8 CHAIRMAN EWASUTYN: Would someone
9 make that motion?

10 MR. WARD: So moved.

11 MR. DOMINICK: Second.

12 CHAIRMAN EWASUTYN: Second by
13 John Ward -- excuse me. Motion by John
14 Ward. A second by Dave Dominick. May I
15 please have a roll call vote.

16 MR. GALLI: Aye.

17 MS. DeLUCA: Aye.

18 MR. MENNERICH: Aye.

19 CHAIRMAN EWASUTYN: Aye.

20 MR. BROWNE: Aye.

21 MR. DOMINICK: Aye.

22 MR. WARD: Aye.

23 CHAIRMAN EWASUTYN: Would someone
24 make a motion to close the Planning Board
25 meeting of the 4th of November.

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MS. DeLUCA: So moved.

CHAIRMAN EWASUTYN: Motion by
Stephanie DeLuca.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Motion by
Stephanie DeLuca. I have a second by Ken
Mennerich. Roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

(Time noted: 9:02 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of November
2021.

Michelle Conero

MICHELLE CONERO