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

----- X

In the Matter of

PATTON RIDGE
(2012-18)

Patton Road & Route 52
Section 47; Block 1; Lot 44
R-2 Zone

----- X

REQUEST FOR EXTENSION UPDATE

Date: November 5, 2020
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

----- X

MICHELLE L. CONERO
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PATTON RIDGE

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CHAIRMAN EWASUTYN: Good evening,
everyone. Welcome to the Town of Newburgh
Planning Board meeting of the 5th of November.
This evening we have five agenda items.

We'll start the meeting with a roll
call vote with Frank Galli.

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. WARD: Present.

MS. DeLUCA: Present.

MR. DOMINICK: Present.

MR. CORDISCO: Dominic Cordisco,
Planning Board Attorney.

MS. CONERO: Michelle Conero,
Stenographer.

MR. CANFIELD: Jerry Canfield, Code
Compliance Supervisor.

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

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

CHAIRMAN EWASUTYN: Thank you.

At this time I'll turn the meeting over

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PATTON RIDGE

3

to Dave Dominick.

MR. DOMINICK: Please stand for the
Pledge of Allegiance.

(Pledge of Allegiance.)

MR. DOMINICK: Please silence your
cellphones.

CHAIRMAN EWASUTYN: Our first item of
business is Patton Ridge. It's a request for an
extension update.

At this time I'll turn the meeting over
to Dominic Cordisco, our Attorney.

MR. CORDISCO: Thank you. The
representative for Patton Ridge, Kirk Rother, is
not able to attend tonight's meeting. He
e-mailed about an hour-and-a-half ago indicating
that his son is required to quarantine as a
result of potential exposure to the Coronavirus.
In an abundance of caution, he suggested that he
not appear tonight.

The application is on for an extension.
The application dates back to 2012 and has
received a number of extensions regarding
preliminary approval for the subdivision.

The project applicant and their

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consultants have requested an extension until March of 2021. It is my understanding that the Board would prefer to have an update from the consultants, as well as the applicant, as to the project and its status. It has received numerous updates.

 This is for preliminary approval. There is not a limitation on preliminary approval. As far as that is concerned, state law provides that the Board, in its discretion, can continue to extend preliminary approval provided that there hasn't been a change in law or circumstances in connection with the project.

 Given that the applicant is not able to appear tonight, my recommendation to the Board would be to hold it over to a meeting in December and grant a short extension to that time so that the applicant could appear.

 CHAIRMAN EWASUTYN: Dominic, should we move for a motion to give a short extension then until December 17th when the engineer or the owner will be present?

 MR. CORDISCO: Yes, sir.

 CHAIRMAN EWASUTYN: Having heard from

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our Attorney, Dominic Cordisco, suggesting we make a short extension from November 5th through December 17th for the action of an extension date which would further go on to March 7, 2021, would someone make that motion?

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 starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. WARD: Aye.

MS. DeLUCA: Aye.

MR. DOMINICK: Aye.

CHAIRMAN EWASUTYN: Thank you. Motion carried.

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

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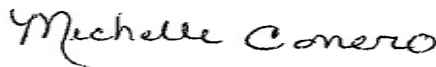
C E R T I F I C A T I O N

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 14th day of November 2020.



MICHELLE CONERO

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

----- X

In the Matter of

AMER & DUCH LOT LINE CHANGE
(2020-13)

Kathleen Heights & Frozen Ridge Road
Section 20; Block 1; Lots 134.2 & 14.13
R-2 Zone

----- X

INITIAL APPEARANCE
LOT LINE CHANGE

Date: November 5, 2020
Time: 7:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN

----- X

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CHAIRMAN EWASUTYN: Our second item of business is Amer & Duch. It's a lot line change located on Kathleen Heights and Frozen Ridge Road. It's in an R-2 Zone. It's being represented by Jonathan Millen

MR. MILLEN: Good evening, everyone. My name is Jonathan Millen, I'm a New York State licensed surveyor.

MR. DOMINICK: Jonathan, could you move your easel to that side so we can all see? Thank you.

MR. MILLEN: The project involves a lot line change that is going to convey a total of 0.545 acres of land to tax parcel 20-1-14.13, containing 2.665 acres of vacant, unimproved land located at Frozen Ridge Road, which is a Town road, to two tax parcels, 20-1-134.2.

There are no private or public utilities on this parcel.

There's going to be 1.45 acres of land to be conveyed to tax parcel 20-1-1.42 designated as parcel A on this plan and on the plan that's been submitted. Parcel A, parcel B and parcel C.

What we have here is this land is going

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to be gaining this parcel. This parcel is giving up this parcel.

All parties usually agree there will be no proposed improvements to either of the parcels. That's either these parcels nor this parcel right here.

That about sums it up.

CHAIRMAN EWASUTYN: Thank you.

Pat, you had time to review this?

MR. HINES: We reviewed it. We just identified that the lot line change is a Type 2 action under SEQRA.

Our second comment identifies what the applicant's representative just said, transferring 1.5 plus or minus acres. That does not result in any bulk table deficiencies on either of the lots.

We're just asking that a standard note regarding no encroachment for the utilities exist within the area to be transferred. We can get you that standard note. That's part of the resolution language.

At work session I was reminded that compliance with the Town's adjoiner notification

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would have to be accomplished. We would have to send out notices to the adjoining landowners regarding this project before the Planning Board. There is not a requirement for a public hearing, but the notice requirement is for any action between any board in the Town and would have to be complied with.

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

MR. CANFIELD: No. Nothing additional.

CHAIRMAN EWASUTYN: Dominic Cordisco?

MR. CORDISCO: Nothing other than to comment that since it's a Type 2 action, no further action is required under SEQRA. No circulation for lead agency and no determination of significance.

CHAIRMAN EWASUTYN: Thank you.

Mr. Millen, you'll work with Pat Hines as far as the informational letter --

MR. MILLEN: Yes.

CHAIRMAN EWASUTYN: -- that needs to go out. We'll reschedule this for final action for our meeting on December 17th.

We have to wait thirty days, correct,

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before we can take action?

MR. CORDISCO: That is correct.

MR. MILLEN: Okay.

CHAIRMAN EWASUTYN: Thanks.

MR. MILLEN: For the future, could I have -- I had to wait for you to agree to send out this mailing. Correct?

MR. HINES: The regulation requires after your first appearance before a board.

MR. MILLEN: Okay. I just wanted to be sure. So Mr. Hines is going to help me with respect to putting together this letter?

MR. HINES: I will develop the informational letter and provide you with a copy of the mailing list from the assessor, and then you will do the -- stuff the envelopes, address the envelopes, postage, and you bring them here to Town Hall to the personnel office. Call first to set up an appointment. They will physically mail the first class, stamped envelopes. I'll work that through with you as we proceed.

MR. MILLEN: Very good. Thank you very much for your time.

(Time noted: 7:09 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 14th day of November 2020.

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

NPA SITE PLAN
(2017-03)

NYS Route 747 Boulevard
Section 89; Block 1; Lots 80.1 & 80.2
IB Zone

----- X

COMMERCIAL SITE PLAN

Date: November 5, 2020
Time: 7:09 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: KEN LYTTLE

----- X

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CHAIRMAN EWASUTYN: The third item of business this evening is NPA Site Plan. It's a commercial site plan located on New York State Route 747 Boulevard in an IB Zone. It's being represented by Zen Design Consultants.

MR. LYTLE: Good evening. Since our last appearance we've actually had a specific gas company looking at and purchasing this.

We've made some changes to the site plan regarding this. Mark Dombal is here tonight.

The changes are to increase the size of the building to 3,200 square feet. It's a much different actual layout. Additional parking. You'll see we have the gas pumps set up on the site.

Regarding how we have retaining walls in different locations, Pat commented on those.

In this new location and new layout we'll need to go back to the Zoning Board to get a couple of additional variances for the rear and for the front here.

That's pretty much where we're at right now. We would like to go to the ZBA if possible.

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CHAIRMAN EWASUTYN: Can you be more descriptive. When you say a couple of variances, do you know exactly what they might be based upon what the code requires and what you're showing?

MR. LYTLE: Sure. A rear setback. It actually requires actually 80 feet and we have 34.7 for the rear for the building. In the front -- on the south side front on Route 84 we're at 25 feet for the overhang canopy for the gas pumps and it's required to have 60 feet. The other two variances are variances that have already been granted on the previous submission.

CHAIRMAN EWASUTYN: What were they, please?

MR. LYTLE: At that point it was actually a front yard for a building off of 747 Boulevard for 21.8 feet and for the canopy off the north side down to 30 feet. The canopy will be in the same location as it was on that originally approved variance.

CHAIRMAN EWASUTYN: Do you have the time now to discuss this pick-up window and what's being considered there?

MR. LYTLE: Sure.

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CHAIRMAN EWASUTYN: For the record, you are?

MR. DOMBAL: Mark Dombal from S&K Petroleum.

So what we're looking at doing, it will be a type of fast-food offering. Some type of -- you know, probably like some type of burger. I'll just throw out an example, like Burger King. Not that it's going to be them.

We'll occupy probably about 800 to 900 square feet of the building. The rest of the building will be just a regular convenience store, gondolas for chips, coolers and stuff like that.

CHAIRMAN EWASUTYN: We had some discussion. We're not certain, and I'll have Pat Hines and Jerry Canfield discuss this, if that use is permitted in an IB Zone.

MR. DOMBAL: Okay.

MR. HINES: Just with that conversation we just had, I do not believe that the drive-thru, fast-food service as was described is permitted in the IB Zone with this individual use. It's only permitted with shopping centers,

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theaters and office research parks according to the zoning. But drive-up windows, fast food is not permitted as a standalone in the IB Zone. So that would be an additional --

MR. LYTLE: Variance.

MR. HINES: -- use variance that would be required.

Just while we're on the variances, I believe that the petroleum storage tanks aren't in compliance with Section 185-28 which requires a 15-foot separation from property lines. So those need to be relocated or it would be an additional variance required.

MR. LYTLE: Okay.

MR. CANFIELD: John, just to add one thing while we're on the variances. The bulk use table, you depict that there were previous variances granted. I believe, because the building has gotten larger, those variances need to be readdressed.

MR. LYTLE: Okay.

MR. CANFIELD: It's a different site plan.

MR. LYTLE: Okay.

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MR. CANFIELD: So in total, I see that we have like seven variances.

MR. LYTLE: Okay.

CHAIRMAN EWASUTYN: Dominic, would this be the proper time to mention and list the variances in preparation for the letter that you have to prepare?

MR. CORDISCO: It would be helpful to provide an enumerated list.

CHAIRMAN EWASUTYN: Can someone lead us in that?

MR. CANFIELD: Do you want to address them now?

CHAIRMAN EWASUTYN: Please.

MR. CANFIELD: The first variance would be for the front yard, 60 feet is required, 28.8 is provided or proposed. The second variance would be the lot is two-sided, so an additional variance front yard would be from the canopy where 60 feet is required, there is 25 feet proposed. The third variance would be a rear yard, where 60 feet is required, there is 34.7 feet proposed. For the side of the north canopy, there is a 50-foot requirement and the proposal

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is 30 feet. The south side -- that's a duplicate. We talked about that, the 25 feet deficiency. The fifth one will be the use of the drive-thru. It is our belief that it is not permitted, which would be a use variance, which is difficult to obtain. However, you always have the option to apply for an interpretation. So that referral would be either a use or an interpretation. The last one, which would be the sixth one, not seven. Our sixth would be the separation between the fuel tanks and the fuel pump dispensers in compliance with 185-28. That's a 15-foot requirement.

MR. LYTLE: I believe we can adjust that on the plan to make that work.

MR. CANFIELD: If you can display to us that that separation is there, then that's not a referral.

MR. HINES: I think there's an additional front yard on the 747 front yard of 21.8 feet in this location --

MR. CANFIELD: On the canopy.

MR. HINES: -- where 60 would be required.

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MR. CANFIELD: My original calculation was right. There are seven variances.

MR. CORDISCO: 28.1?

MR. HINES: 21.8 where 60 would be required.

MR. CORDISCO: I missed the rear yard setback. I have 34.7 proposed.

MR. HINES: Yes.

MR. CORDISCO: What is required?

MR. LYTLE: 60.

MR. CORDISCO: Thank you.

CHAIRMAN EWASUTYN: Question with BJ's. BJ's was proposing signage on the canopy and that isn't permitted in our code. Is that correct?

MR. CANFIELD: We don't have a signage plan before us. That's something that will need to be addressed.

That's a good point the Chairman brings up. The signage for the canopy is not addressed in our signage ordinance. Past applications, we were referring them to the ZBA to cover that signage. So you're aware of that.

CHAIRMAN EWASUTYN: Thank you.

I'd like to take the opportunity now to

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sort of look at this plan in preparation for when and if the time comes that you resubmit. Realizing that when you resubmit it's essential that you list the comments from the consultants and your response. The purpose of a resubmission letter has always been for the convenience of everyone, that they read the resubmission letter. If they don't, for whatever reason, have time to look at the subdivision or site plan, they're up to date on what someone like yourself was looking to present. The most recent resubmission letter was just void of that information. So unless you resubmit next time with the correct letter, then we can't move forward with it.

MR. LYTLE: Okay.

CHAIRMAN EWASUTYN: I'd like to take the opportunity to have Ken Wersted speak about what we'll require. Thank you, Ken.

MR. WERSTED: Relative to traffic, I like the new orientation of the building. It will allow trucks to circulate around nicely. There may be a couple of tight spots, one being the southwest corner where a truck will be making a left turn around the last pump there. That

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might be a little tight. As it circulates around to the north side, it will make a right turn onto the driveway. That corner might also be a little tight. Access for a dump truck to get to the -- not a dump truck. A garbage truck to get to the dumpster may also be difficult.

We had talked about -- I think last time you didn't know how many fueling positions were on the site. We had just made an estimate. I see that there's twelve. That's about 3,200 square feet. A convenience store and drive-thru was added. We think you should look at a traffic study. It's going to be of particular importance for DOT because the driveway was originally built for a single-family house. Now we have commercial traffic coming in and out. That will be important.

In Pat's review he had mentioned a section of the code, 185-28, and there being a number of items there that fall under this category that will have to be looked at. We note that as well, including the roadway as it's designed maybe 20 feet wide but 25 feet may be required as part of that zone.

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We're not aware of any kind of operational issues here, but DOT may be interested to see a southbound left-turn lane to get into the driveway. At the location where the road is starting to split out, as you approach the interchange, a vehicle stopping there to make the left turn may be kind of hanging out in the travel lane. That was it.

CHAIRMAN EWASUTYN: Pat Hines, you had some questions.

MR. HINES: We have quite a few comments on here. The revised plan shows numerous retaining walls. We're asking for some additional spot elevations be provided on top of the base of those walls.

Also we are requiring submission of stamped design plans for those walls. They all require building permits based on their height.

The front wall along 747 is a wall with a drop off. We're suggesting that that require a guide rail to keep vehicles from ending up on 747 from the site.

We're looking for the rims and inverts of all drainage pipes to be depicted. You show

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several existing drainage pipes. We need those rims, inverts and sizes shown on the plans.

We did note there is no drainage study submitted for the site yet, which will be required.

I had some comments on the bulk table.

The drive-thru window, if it should proceed, doesn't seem to have a canopy over it. I think that would be required or you'll be getting rained on as you're passing money back and forth, or product. So those typically have that. Take a look at that and make sure that doesn't affect any of your variances where that lands.

Health Department approval for the septic system. This was previously referred to them. We're looking for the status of that approval.

The truck turning template we just talked about with Ken.

It will require submission of a landscaping plan in the future as the project moves forward.

The project is located adjacent to the

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New York City DEP Catskill Aqueduct property. When we do lead agency they will be an involved agency in this and we will submit to them. They may have comments on the use. I don't know if you've been to them yet. They often have interest in petroleum storage in proximity to that.

We're looking for a parking calculation in the bulk tables.

The building will be required, under the Town of Newburgh code, to be sprinklered for fire suppression. That's something you and your client need to be aware of. That expense of tankage associated with storage of that water needs to be addressed, either in the building, which may take up a lot of space, or outside. Take a look at the Town's sprinkler ordinance. It has stricter requirements than the New York State Building Code.

The well on the site will be considered a community water system and will also need to have Health Department approval associated with the food service use. It will require a water treatment system, which may also take up space in

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your building.

Signage on the site is not addressed. We just discussed that. The signage on the canopy will most likely need a variance.

We're looking for additional survey information. It says Interstate 84 on the south side of the site but it's actually the ramp for 747. Also out in the right-of-way for 747, DOT is going to require all the striping and such be shown there, as well as Ken's office can use that to review whether a right-turning lane -- we need to see where that striping lies out there in the right-of-way. You're showing the right-of-way but not actually the paved road. That survey detail should be added to the plans as we move forward.

A stormwater management facility which we just discussed. It's going to be considered a stormwater hotspot because of the fueling. That's going to need to be addressed. Infiltration practices are not acceptable.

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

MR. CANFIELD: I just basically have

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two questions. Ken, the section, block and lots seem to be different than what's on the tax map. The project is labeled as 89-1-19.22. The tax map shows it as two separate parcels, 80.1 and 80.2.

That leads to my next question. If these are two separate parcels, the Board should consider some type of caveat or condition of approval, should it come that time, to address that they are two separate parcels, that they're to remain in the same ownership, simply because if the one parcel would be sold, the site doesn't function, obviously.

MR. LYTTLE: Okay.

MR. HINES: Or transfer at a tax sale.

MR. CANFIELD: Right.

CHAIRMAN EWASUTYN: Dominic?

MR. CORDISCO: Nothing further at this time.

I'm prepared to make the referral to the ZBA if the Board is in a position to recommend that referral.

CHAIRMAN EWASUTYN: Let's have an opportunity to hear comments from Board Members.

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We'll start with Stephanie DeLuca.

MS. DeLUCA: I really don't have any other comments. It's quite a list.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: I think Pat and Jerry covered everything.

The only thing I would suggest, Ken, is we're going about three years on this project, it seems, from inception. It still looks like we're at the initial appearance. Can we come back with more detail on this project?

MR. LYTLE: Again, we just actually switched to a specific client finally. Before I was trying to get a client. That's where we're at now, which is why everything changed so dramatically.

MR. DOMINICK: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'm going to ditto that. I'm looking at this plan. I would like identification where the aqueduct, striping and everything else is. It's not identifying a lot of things. The last three years, we're basically looking at the same thing. Thank you.

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CHAIRMAN EWASUTYN: Pat, refresh my memory. Have we ever declared intent for lead agency for this?

MR. HINES: I don't have that in my records that we have. I think it was always concept, concept, concept. There are several agencies involved here, so I don't believe you have.

CHAIRMAN EWASUTYN: We should move to start the SEQRA process. Correct, Dominic?

MR. CORDISCO: That's correct.

CHAIRMAN EWASUTYN: We would have to declare intent for lead agency and circulate.

MR. HINES: Typically when we send things to the ZBA we hold off on that circulation and allow them to do their own SEQRA review prior to us involving the other agencies, otherwise they would have to wait further in the process to rule on that.

MR. CORDISCO: That's correct. A coordinated review is not required at this time. It would be helpful for the Zoning Board to be able to consider the variances without having to wait for this Board to resolve all of the

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technical issues.

CHAIRMAN EWASUTYN: And for us to accomplish something after you meet with the ZBA as far as declaring our intent for lead agency, we'll need information.

MR. HINES: We need the level of detail that the comments have suggested.

MR. LYTTLE: Okay. Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think, you know, the proposal you have now is going to be even more difficult for the site than the previous versions. You've made a larger building. You have the drive-thru. There are a lot of details, like landscaping and drainage and everything. It's going to be a challenge for you.

MR. LYTTLE: Thank you.

CHAIRMAN EWASUTYN: Frank?

MR. GALLI: At this time for the sprinkler system, how do you plan on managing that?

MR. DOMBAL: This is the first I heard of the sprinkler system. We'll look into that for sure.

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MR. GALLI: The building has to be sprinklered. There's no Town water out there. It's not an easy task.

MR. DOMBAL: Okay.

MR. CANFIELD: If I may, just to explain or elaborate a little bit. The Town of Newburgh has a more restrictive sprinkler requirement than the New York State Fire Code, the 2020 version. We require that all commercial buildings are sprinklered. This obviously falls into that category, all commercial buildings. Without the luxury of municipal water, then you will have to come up with a calculated water supply to facilitate the system.

MR. LYTLE: Yup.

MR. DOMBAL: Okay. Our engineer will handle that.

MR. LYTLE: Thank you.

CHAIRMAN EWASUTYN: If there are no further questions, our Attorney, Dominic Cordisco, will prepare a letter that will be forwarded on to the ZBA. That's your next step.

MR. LYTLE: Great. Thank you very much.

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MR. DOMBAL: Thank you.

MR. CORDISCO: Mr. Chairman, that will go out early next week.

CHAIRMAN EWASUTYN: Sometime next week.

MR. LYTLE: Thank you.

(Time noted: 7:26 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 14th day of November 2020.

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

POLO CLUB
(2018-12)

Route 32 & Jeanne Drive
Section 39; Block 1; Lots 1 & 2.12
R-3 Zone

----- X

RECEIPT OF FSEIS

Date: November 5, 2020
Time: 7:26 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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POLO CLUB

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CHAIRMAN EWASUTYN: Item number 4 is the Polo Club. It's the receipt of the FSEIS. The subject property is located on Route 300 and Jeanne Drive. It's in an R-3 Zone. It's being represented by Engineering & Surveying Properties

MR. WINGLOVITZ: Good evening. For the record, Ross Winglovitz with Engineering & Surveying Properties, here with Jayne Daly and David Weinberg.

We did receive comments from each of your three consultants, Karen, Ken and Pat. I have reviewed them. I did have a conversation with Pat yesterday and we reviewed some of the items. We're prepared to respond to those with a revised submission.

We'd like to hear any specific concerns the Board may have in addition to what we've already spoken about.

CHAIRMAN EWASUTYN: Ken Wersted, you did look at traffic. You have provided a comment letter for that topic. Do you want to speak on the record with that?

MR. WERSTED: Certainly. We went

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through the traffic study that was provided as part of the DEIS -- the SDEIS as well as the FSEIS. We found that the number of units included in the traffic study were slightly higher than what's actually proposed on the site plan. We have a degree of conservativeness in there.

The methodology of the traffic study also took into account some conservativeness in its estimation of the trips generated from the project. We think it might be maybe ten or fifteen percent lower during the peak commuter times on Route 300.

There are assumptions for background growth and trip distribution we agreed with.

We concur with their findings that delays at the Route 300/Route 32 intersection will be relatively minor with the implementation of some signal timing changes there.

Further, at the Route 300/Gardnertown Road intersection, which is the one right out here on the corner, some signal timing changes will mitigate the impacts of the project. However, we do note that since that signal has

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been put in, over time more traffic has come up to that intersection and tried to turn left. You can go out there almost any time and watch cars stuck behind a left turn. We suggested that as part of the review of DOT, to look at a left-turn lane there.

At the Route 300/Route 52 intersection, we've long known that that has been a constraint. The 2006 version of the Polo Club, the 2004, Wilder Balter/The Marketplace/The Loop/The Ridge have all looked at that intersection. It's been long identified that there's not a lot of ability to widen the road and provide capacity there. In the past fair share contributions have been recommended at that location.

With that in mind, as well as it being a DOT road, some of the comments in the FSEIS suggested that some of the mitigation measures will be determined as part of the review with DOT. We, I think, look towards Dominic to help us kind of wrangle that in. Do we need to get some input from DOT now? Where in the process do we stand with trying to make a determination with SEQRA if we don't have any of their input yet?

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Lastly, the site driveway will operate with a level of service D/level of service E. The intersection itself has the ability to provide two lanes exiting. The left turn to go south on 300 is always going to take a little longer than the right turn. Meanwhile the driveway is wide enough to accommodate that. The right turn can pull up next to them and make a turn much more easily. We don't think it's going to warrant a traffic signal. It's just going to be a driveway that operates at that level regardless.

That was the summary of our comments.

CHAIRMAN EWASUTYN: Dominic, can you advise us on the question that Ken Wersted proposed?

MR. CORDISCO: Yes. This touches on the fact that the Board obviously is lead agency, but there's other permitting jurisdiction out there, including, obviously, the New York State Department of Transportation. So the Board is in a position to be evaluating not only impacts but also potential mitigation measures that might be required as a result of the project. It's doing

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so over something that's actually regulated and overseen by another State agency.

So Ken is right to point out the fact that there's a potential for a disconnect between the Board's review and the Board's mitigation that you find in your SEQRA process compared to what DOT might want to see happen, or even is willing to allow to occur on essentially their road.

My suggestion would be to reach out to DOT again at this point and indicate where we are in the process, because you haven't received a supplemental final environmental impact statement as far as a proposed one. It's a draft. It's not been accepted. The time would seem right to have comments from DOT on this before you proceed any further on this particular issue.

CHAIRMAN EWASUTYN: Ross?

MR. WINGLOVITZ: You're asking if Ken would reach out to the DOT? They were an involved agency. They were copied on everything. If they had any input, they should have provided it during the DEIS process.

MR. CORDISCO: Yes, that is correct.

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It may be helpful if Ken reaches out directly at this point. As I said, this is a proposed final supplemental so they don't see this document.

MR. WINGLOVITZ: This one they won't see.

MR. CORDISCO: They wouldn't see it until this Board finds that the document is in a final form and actually has adopted it.

We should take a moment to talk about that for just a moment if you would. Unlike a draft environmental impact statement which is prepared by the applicant and is really the applicant's view of their proposal, the final supplemental environmental impact statement here on these issues that you're evaluating is drafted by the applicant but it becomes the Board's document because it is essentially your conclusions and your responses to issues or concerns that were raised through the process. As a result, the Board has the opportunity to evaluate this and require changes to it until you are fully satisfied on the issues that are before you. Also, as a consequence of that, built into SEQRA is the fact that there's no default

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approval in connection with this. There's also no mandatory timeframes where the Board must review and then provide a response. It's essential. This is the point where, you know, the Board has a full and fair opportunity to make sure that not only have the environmental impacts been identified but that they've been fully evaluated and mitigated as appropriate.

CHAIRMAN EWASUTYN: Does everyone understand that? Any questions for our Attorney, Board Members?

(No response.)

CHAIRMAN EWASUTYN: Well spoken. Thank you.

MR. CORDISCO: Thank you, Mr. Chairman.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have also reviewed the final supplemental environmental impact statement. I've provided the applicant and representatives our comments. I don't know if you want to go over each one. There's three pages of them. A lot of them have to do with the sanitary sewer evaluation that was provided, including the need for a more detailed cost

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estimate. The Board was clearly requesting the analysis between the on-site sewage treatment plant versus the pump station force main alternative. I've provided numerous comments on that.

My comment 8 reiterates what Ken and Dominic just spoke about, any recent correspondence with the DOT.

In response to your traffic comment, he identifies that there was some coordination, and that should be incorporated in the FEIS.

Similar with the traffic as Ken said, all proposed traffic mitigations should be identified in there rather than deferring to the highway work permit process in the future.

We have discussed the Jeanne Drive water main extension, or the water main serving the project. We requested that -- the hydrant water flow testing that had been done is dated. I discussed with the applicant's representative to reevaluate that to make sure it's current data. I did discuss it with the water superintendent today. He said they would work with you and provide access. So if you could

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coordinate that with them.

I have numerous sewer comments. A lot of my technical comments have to do with the sewer after that. You were missing our review letter. At least my copy, appendix B2 didn't have that. That needs to be in there.

Again my comments 19 and 20 also have to do with the sanitary sewer system evaluation.

A lot of the public comments had to do with the sewer, and a lot of the Board's comments had to do with the sewer. With this becoming the Board's document, we believe that that should be further evaluated.

CHAIRMAN EWASUTYN: Would any Planning Board Member like to add to the discussion that was offered to us by Pat Hines?

MR. GALLI: Response number 7, Pat, in your comment there, their response was about no fencing proposed for the residential neighborhood. That really should have fencing.

MR. HINES: Yeah. The Town code requires it, and there are DEC design standards to meet regarding stormwater facilities that aren't fenced. It's a 1 on 5 slope. These

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facilities do not have that. The fencing should be provided.

MR. WINGLOVITZ: We'll provide.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing additional.

CHAIRMAN EWASUTYN: At this point we'd like to turn to our Attorney, Dominic Cordisco, to summarize the discussion and the steps following tonight. Dominic.

MR. CORDISCO: At this point it would seem to me that the applicant should work on revising the documents in order to address the outstanding technical comments.

The Board's traffic consultant, Ken Wersted, my recommendation would be to request that he reach out directly to DOT and advise them where the applicant is in the process. It would be helpful if we were to have their input on the proposed mitigation and impacts associated with their roadway.

The Board itself has acknowledged receipt of the proposed final supplemental environmental impact statement, and of course the

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Board may have additional comments or concerns as they continue their own review.

CHAIRMAN EWASUTYN: Dominic, for the record should the Board poll the Board Members to acknowledge receipt of the FSEIS or should we leave it unspoken of?

MR. CORDISCO: I think at this point the record is clear that it's been delivered and is part of the discussion. No formal action is required by the Board at this time.

When the Board is satisfied with the document and all of its supporting information and the state of the plans, then the Board would be in a position of adopting the final supplemental environmental impact statement. Once you do so, at that point there are mandatory timeframes that kick in. In particular, the Board has to be in a position to adopt a findings statement which concludes the SEQRA process within thirty days of the adoption of the final supplemental environmental impact statement. So at the point that you're prepared to adopt this document that's in front of you, you have to have an eye towards making the final conclusions for

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POLO CLUB

45

SEQRA.

CHAIRMAN EWASUTYN: Within thirty days?

MR. CORDISCO: Within thirty days.

Correct.

CHAIRMAN EWASUTYN: Dominic, at what point then do we refer it on to the Town Board? I think it is an action that will need to be coordinated with the Town Board.

MR. CORDISCO: The Town Board -- yes. That's a very good question. So the Town Board is involved as well. There are certain actions that they would need to take, especially in connection with the sewer, correct me if I'm wrong, because there would be a district that would be formed if there was.

MR. HINES: This won't have a district because it's a single user. It's an apartment complex. The Town Board action under the zoning is for the senior density bonus. They referred it back to us. They can take no action until
SEQRA.

MR. CORDISCO: That's correct.

CHAIRMAN EWASUTYN: Thank you.

Ken Mennerich, please.

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MR. MENNERICH: I just had a question.
Did you get Karen Arent's --

MR. WINGLOVITZ: Yes, we did. Jay has
looked at them and started to prepare the
revisions.

MR. GALLI: I just have one more
question. Comment 16, Pat, I was willing to bring
it up about the cost analysis on the wastewater
treatment plant and having it and hooking up to
the sewer in the Town. I read the whole three
pages, I think it was, on the cost and what it
cost to do this and what it would cost to do
that. So is that the end of it? Is that where
they leave it and we just --

MR. HINES: No. That comment 16
identifies that cost analysis as woefully
inadequate. It actually doesn't have a breakdown
of how that cost got there. We're asking for
that additional information because I think it's
important for this Board, as it develops finding
statements, to give the applicant a direction on
what would be the most likely or the best
mitigation action regarding whether it's an on-
site sewage treatment plant or conveyance of the

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POLO CLUB

47

effluent via pump station to the Town's collection system, and ultimately to the City of Newburgh's treatment plant, for discharge to the Hudson River. So I think that that needs to be beefed up. Numerous Board Members have identified that concern. I think that cost comparison or finances is one aspect of it. It's also, you know, the environmental mitigation aspect of what the Board is looking for. Right now I don't think we can compare apples and apples right now with the information that was provided.

MR. GALLI: Thank you.

CHAIRMAN EWASUTYN: Jayne Daly, do you have any comments in reference to SEQRA or the procedure we're following?

MS. DALY: Not at all.

CHAIRMAN EWASUTYN: David Weinberg?

MR. WEINBERG: I'm good.

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

(No response.)

CHAIRMAN EWASUTYN: Thank you all for your time.

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MR. WINGLOVITZ: Thank you.
(Time noted: 7:40 p.m.)

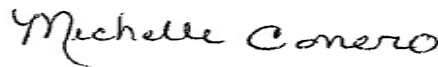
C E R T I F I C A T I O N

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 14th day of November 2020.



MICHELLE CONERO

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

----- X
In the Matter of

DARRIGO SOLAR
(2019-24)

86 Lakeside Road
Section 86; Block 1; Lot 96
R-1 Zone

----- X

SOLAR FARM - SPECIAL USE

Date: November 5, 2020
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JEFFREY LEASE

----- X

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

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CHAIRMAN EWASUTYN: Our fifth and final agenda item this evening is Darrigo Solar. It's a solar farm needing a special use. It's located on 86 Lakeside Road in an R-1 Zone. It's being presented by Jeffrey Lease.

MR. LEASE: Good evening. I'm Jeff Lease. I'm here representing the Darrigo family in this application. I'm without engineer, Mike Morgante, tonight. I'm sorry.

When we were here in February we were asked to go before the ZBA for an interpretation of zoning, both on the rearrangement of the panels and size, as well as the farm uses which will co-exist on the 60 acres. The ZBA reviewed our application in August, which was the first date I could get an actual appearance, and they have granted and okayed the size as well as all the existing farm uses. I'm waiting for that letter. I've prompted Darrin and he's working on it with Dave Donovan.

What I have is -- what I submitted here is not the full set but two plans. One of them is really inadequate, and I apologize. The landscape plan was very inadequate and somewhat

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DARRIGO SOLAR

51

contradictory. I've spoken to John. I have an updated landscape plan which I'd like to now distribute. I've e-mailed this to Karen. I thought she might be here tonight.

CHAIRMAN EWASUTYN: Can I have an extra one for Cliff Browne?

MR. LEASE: I have several --

CHAIRMAN EWASUTYN: I don't want to carry things back and forth. I have to carry things here. I want to minimize that. Thank you.

I contradict myself. Let me have a copy for Scott Manley, Gil Piaquadio, and also for Mark Taylor.

MR. LEASE: I've got more in case you need them.

CHAIRMAN EWASUTYN: I'll stop by their houses and deliver them.

MR. LEASE: So what's changed in the plans from the January, February meeting was an increase in the size of the buffer along the north and eastern sides of the property. It's now a 100-foot landscaped buffer, and there's 50 feet of grassy area before the panels begin. So

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that's 150 feet there. This plan -- the landscape plan, which doesn't make, in my opinion, a whole lot of sense, maybe to you, but it's got a lot of technical stuff in there that I think Karen will want to weigh in on. As Karen and I had walked the property with Jimmy Presutti, and I think Jerry as well, she had designated certain areas that she wanted to see some filler or some additional plant material. That's on the plan. I can address it directly here.

Pat, all I submitted this time was the site plan and the landscape plan, and now the adjusted plan. We do have for your review the entire set which has all been redone with the changes. I'm sorry. We can e-mail that to you tomorrow or I can drop it off.

MR. HINES: That needs to come through the Board, though. I work for the Board.

MR. LEASE: Okay. I realize that some of the comments that were made had to do with the fact that you didn't receive a full set, and I apologize for that.

This is just an expanded version, very wrinkled, of the array, the drawing that you have

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now.

Pat made some comments, and I am prepared to answer some of them to the best of my ability without Mike here.

MR. GALLI: The last time you were here he wasn't here either. Right?

MR. LEASE: He's a mystery man, isn't he.

MR. GALLI: I guess so.

MR. LEASE: He was here one time that I made a presentation.

What we've done here, in addition to the buffer plan, is that we've expanded some of the gravel area to neaten up the farm area, which was a request of the ZBA. We'll have to re-gravel the driveway. We're also going to gravel the area around the farm storage supply yard.

Most of this tree material is here. There are certain sections in here that needed to be added. Of course this is a very large 400 to 500 foot buffer which runs along Interstate 84 blocking the view of the supply yard from Interstate 84.

The farm buildings are largely where

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they are right now. Not largely. They're exactly where they are. There are no new buildings.

 This hillside will be dramatically thinned out but not all of the trees will be removed. There will be new understory trees as well as shrubbery on that hillside.

 The only areas that you don't have currently right now, and she's working on, is a landscape plan for the entryways for Meadow Avenue as well as Lakeside Road. They will have decorative gates and they will also be landscaped. We're trying to work with Central Hudson to see what landscape material we can bring to the entranceway at Monarch and Meadow Avenue, which is very, very tight. We need to get a fire truck in there. The interconnection poles are also there. It's currently a sliver which goes out which will receive a decorative entryway close to the road, and then the actual security gate will be much further back in. I mean Jessica McCarr of Saratoga is working on a landscape plan for that area specifically. So that's one component of the landscape plan that

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is missing. That's it.

You know, except for the -- I can go through some of the comments from Pat's comments. I can go through them one by one.

The point of this meeting, I'm hoping to get a public hearing so that we can move forward to the next step.

I'll answer these Pat Hines' questions when you tell me it's appropriate.

CHAIRMAN EWASUTYN: Procedurally, and I'll refer to Dominic Cordisco, to schedule a public hearing we would have to make a SEQRA determination, which is what we have been doing all along?

MR. CORDISCO: You have typically for subdivisions. Is it the Board's practice to require SEQRA before site plan as well?

MR. HINES: We typically would closeout SEQRA before we schedule public hearings.

MR. CORDISCO: That would be the case.

CHAIRMAN EWASUTYN: Would someone speak more clearly on that for the record and for the benefit of Mr. Lease?

MR. HINES: So it's the Board's policy

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that the complete application be available prior to the public hearing. One of the components of a complete application is the closeout of the State Environmental Quality Review Act process. The previous plans we had initially were not -- had no solar arrays within the DEC-regulated Superfund area. DEC's comment letter, when we did lead agency circulation, was that we're pleased that you're not impacting the area that was previously delineated as the old landfill site. This plan has now shown that area to be covered with solar arrays. So that --

MR. LEASE: I don't remember them not being covered. But okay.

MR. HINES: When we circulated for lead agency, that was one of the comments, that they came back and said the site is a Superfund site but you've avoided any impacts to it, and now -- that was looking back at the project. Now it is covered with that. I think that's something that needs to be weighed in on by the DEC.

In addition, SHPO, the Office of Parks, Preservation, Historic Preservation, I don't know what the status of that closeout is. They

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requested a phase 1-A and B archaeological study.

MR. LEASE: We've provided that.

MR. HINES: Typically we would get a sign-off letter from them.

MR. LEASE: From SHPO?

MR. HINES: From SHPO that there's no impact. These are kind of SEQRA issues that we need to closeout.

DOT had some comments on the glare study, I believe, that may be outstanding.

There was a glare study we provided to both the FAA and the DOT. We have not heard from the FAA. We sent it to multiple FAA addresses.

MR. LEASE: But we have. I submitted that. I have that. If I may, we did receive a letter back. For some reason -- I saw it. I saw that comment there. (Handing document to Pat Hines).

MR. HINES: Okay. So that has been answered. That's good.

MR. LEASE: Do you want a copy of this as well?

CHAIRMAN EWASUTYN: I should have it for the record.

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MR. LEASE: So in other words, this is -- I thought -- I know I submitted this at the February of 2020 meeting. So there's the glare study with the FAA comment letter (handing).

CHAIRMAN EWASUTYN: Do you have any additional for Board Members?

MR. LEASE: I do. Here's the glare study.

MR. HINES: This was in March of 2020 it says. So it would have been after the last two meetings that we were here.

Our other comment is that we had 31 January and 6 February comments. They may be addressed on the full set of plans, but again I haven't seen a full set of plans.

MR. LEASE: Wait a minute. Let me deal with this. I don't have enough for every single person but here is the --

CHAIRMAN EWASUTYN: You know what you could do. Maybe at a later date you can scan that, e-mail it to our office, and then I'll do a PDF just for the record.

MR. LEASE: Okay, great. I don't have any more copies. I just have this.

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MR. HINES: If you e-mail one, we'll circulate it.

MR. LEASE: Great.

MR. HINES: I think that's the original. Do you want to give me the copy instead? That's a color original. I don't think those are.

MR. LEASE: It's not. It's not.

MR. HINES: That's the extent of our comments. We would need to closeout SEQRA. There are procedural issues with the other agencies we need to do. Then I think we need the full set of plans to be submitted to the Board based on this. I think the buffers have been addressed that the Board had required in the past along the residential properties.

Speaking to John Ward the other day, he noted that the megawatts of the facility may have gone up from 4 to 5.

MR. LEASE: Well that was -- yeah. That's why I went to the ZBA. Yes.

MR. HINES: So that is part of the project, that --

MR. LEASE: Right.

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MR. HINES: -- change in the footprint.

That's where we're at. I think the Board -- I'll await submission of the full set and we can move forward on that.

MR. LEASE: Okay. I'm unaware. Does SEQRA take another meeting or can it be done in between now and the next potential --

CHAIRMAN EWASUTYN: The actions -- if I can speak. The actions we would finalize at a meeting of all the Board Members to declare a negative declaration, and at that time we would set it for a date.

MR. LEASE: Okay.

CHAIRMAN EWASUTYN: So to answer your question, procedurally you would have to come back.

MR. LEASE: Okay. Can I come back in two more weeks?

CHAIRMAN EWASUTYN: You can come back tomorrow but there's no meeting tomorrow.

MR. LEASE: But I mean --

CHAIRMAN EWASUTYN: Can we do this. Can we follow the steps rather than make the urgency the urgency now? I'd rather not speak

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for two weeks from now until we hear from Pat Hines so we know that everything is reaching a point, if that makes sense.

MR. LEASE: Okay. Yes.

MR. CORDISCO: If I may, Mr. Chairman. One of the significant outstanding issues is the location of solar panels on the old landfill area without the input from the DEC. So that's an area of environmental concern that this Board will have to make a determination on. In the absence of having information from the permitting agency or the agency that has regulatory oversight over the Superfund area, it's difficult for this Board to make.

CHAIRMAN EWASUTYN: Good answer.

MR. LEASE: I actually have a letter here, which was January 9th of 2018 when we first did the proposal, that says that the Department will have to be notified of any action on top of the site. I had sent them a set of plans at the time. I think that one just says it needs to be reviewed by the DEC again.

MR. HINES: Under our lead agency circulation, under environmental remediation it

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says, "As specified in your submittal, the project site is within or near a designated State Superfund site," and it gives the number referenced in my comment. "Remediation at this site is complete. The site management plan has been approved to monitor the effectiveness of the remedy and control. Any activities conducted within the designated Superfund site must not interfere with the effectiveness of the remediation in place. Based on a review of your submittal, it appears that the solar development would not be located directly within the bounds of the Superfund area, and thus it would not interfere with the remedy's effectiveness. However, please note that if any activity is indeed proposed within the Superfund area, it must adhere to the Fifth Department's approved site management plan and you must notify the DEC Division of Remediation." So somewhere in between when you had that letter and the March 15, '18 --

MR. LEASE: 2018.

MR. HINES: Yeah. March 15, 2018.

MR. LEASE: Right. This letter here.

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Okay. Great.

MR. HINES: Correct.

MR. LEASE: I'll take another look.

MR. HINES: At that time when we did our lead agency circulation, there was no proposal above the area indicated by the environmental control easement.

MR. LEASE: Great. I'll take care of that with the DEC then.

CHAIRMAN EWASUTYN: Would it be a benefit to you if there would be a letter listing these bullets that need to be accomplished?

MR. LEASE: Yes.

CHAIRMAN EWASUTYN: I'll let the Board, Dominic Cordisco and Pat Hines, work on this letter.

Is the Board in agreement with that.

MR. LEASE: That would be fine. Thank you very much. That would be very helpful.

MR. WARD: I have a question.

CHAIRMAN EWASUTYN: John Ward has a question.

MR. WARD: Does it affect any approvals or being okay with the FAA, whatever, with the

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additional panels and more trees taken down?

MR. HINES: The FAA response, which I just reviewed, did not mention anything regarding glare. It only had to do with the height of the panels and obstruction to aviation. It doesn't look like they're concerned with the glare. We did provide them with the glare study. The glare study results is it was going to be no impact. I hear from the solar manufacturers that they're designed to absorb the sunlight rather than reflect it. We do require the glare study. The glare study was provided. It doesn't appear that the FAA weighed in on that.

MR. WARD: How about 84?

MR. HINES: The DOT did receive it as well.

MR. WARD: Which plan?

MR. HINES: They haven't seen this plan, I don't believe. It was the lead agency circulation plan. So this one has changed somewhat.

MR. WARD: My question is we haven't received that plan, certain Members. Not this one. That plan. I never received it.

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MR. LEASE: The other plan that I --
yes. The site plan. Well I left it with John.

CHAIRMAN EWASUTYN: You did get a copy
in your box. That's what I asked you today.
That one sheet you did get.

MR. WARD: I got the landscaping but
not the one --

CHAIRMAN EWASUTYN: That's the one he's
referring to.

MR. LEASE: This one here. I have an
extra copy. I can give it to you right now. I
did submit it a couple of weeks ago.

CHAIRMAN EWASUTYN: We all got that
one. You got that also.

MR. LEASE: I can give this one to you,
John. Sorry about that.

MR. WARD: I never got this.

MR. LEASE: Actually John, that's an
original. I'm sorry. I stamped this one. May I
give you another one? I think I have an extra
one here.

CHAIRMAN EWASUTYN: You can have mine.

MR. WARD: Thank you.

MR. LEASE: No, no, no. That's a

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different one.

MR. WARD: That's the landscaping.

MR. LEASE: I will get you another plan. Okay.

MR. GALLI: I just have a question, John. The ZBA was generous enough to let you keep all your stuff on the property for farming. I didn't read the ZBA approval yet. Was there anything in the ZBA approval about if you stopped farming, that you had to get rid of all that stuff? We call it stuff. It seems like every building on there is like just farming use, farming use. I only see two little spots you're going to use for farming if you're going to, I guess, grow hay and whatever else you're going to grow there. Did the ZBA say anything about that?

MR. LEASE: It's both a farming operation and a supply yard. The actual owners of the property and the taxpayers of the property are known as Darrigo --

MR. GALLI: A supply yard isn't a farm.

MR. LEASE: The buildings are used as a supply yard as well, and that was part of the approval that was given. But I could tell you

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that we did -- I went through a number of iterations of showing another plan where this whole area gets organized. The amount of junk that's there get reduced. This buffer here screens it from Interstate 84 and the whole area gets grown in.

I don't know what to say because I don't know, if the farm should ever expire on the property, what would be the future. You're asking me what would be the future of the buildings and the structures on the property if the farm should expire?

MR. GALLI: Right. I don't know if they put anything in the ZBA. I haven't seen it yet.

MR. DOMINICK: Jeff, two quick comments. First, tonight you passed out two very critical, important documents. I don't like last-minute surprises. Can we be more proactive and get that out to the Board Members so we have time to review it?

MR. LEASE: You mean this plan here?

MR. DOMINICK: Correct. The map and --

MR. LEASE: When I made the application

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I said to John that I would be presenting this plan here tonight. So yeah. I kind of -- this wasn't something I just came up with. It was something we were working on. I gave an interim landscape plan. But I'm sorry.

MR. DOMINICK: The second thing is just taking off what Frank said, you know, the storage barn -- you call it the barn, field, storage thing, I see theme park, Terror Dome. How are you cleaning that up? That was my initial comment back in the beginning. That's my biggest concern, the mixed use of this property.

MR. LEASE: Right.

MR. DOMINICK: So I see you have fresh plantings here. It's going to take 50 years to cover that stuff by the time it grows up. What are you doing to mitigate, to remediate the eyesore?

MR. LEASE: Well the plantings are going to cover it up to some extent. The yard is already being cleaned up. The biggest thing here is that that entire yard gets re-graveled and everything is going to get replaced there. We're removing some of the trailers that are on the

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property. A lot of the debris that's on the property is in the area of the solar array. You see this area right here with the barn. But there's other debris from the Terror Dome that's going to have to be removed and be cleaned up on the property, particularly on the hillside. So the Terror Dome doesn't actually have kind of permanent stuff right now. It has a lot of temporary things on the property. There's a barn which is used, and there are some old vehicles. They'll all have to be removed. Terror Dome is still allowed on the property as per the ZBA, but, you know, a lot of it is going to have to be cleaned up just because of the way the panels are going to be.

One of the other things is in the area of the upper field -- there's a lot of brush on both this lower field and this upper field which is going to have to be removed. So there's like piles of sticks and brush that are going to have to be taken away as well, which is part of this plan.

The reason I mentioned the gravel area is because it's going to make the area look much

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different. It's a \$150,000, \$200,000 expense, re-graveling and regrading that area. So it was one of the big things I thought would really make the area where the barns were much neater and cleaner. It doesn't stand out in the plan but it's a major -- it's going to make a major contribution to the look of the site I think.

MR. DOMINICK: Okay. I'll take your word for it as we have it on record. When you drive east or west on 84, you see an eyesore. It's part of the Town and it doesn't represent the Town well.

MR. LEASE: I know that's been a concern of yours from the onset.

MR. DOMINICK: Okay.

MR. LEASE: I feel that there's something unsaid here. I will have to provide you with more material to allay your concerns about that. I don't know what to do but I probably should do some view studies showing what the property will look like when it's complete in the areas of the farm.

MR. DOMINICK: Thank you.

MR. LEASE: Pat, there was a list or a

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bulletin of a whole number of items that were there. I was going to address them one by one with Mike here at the meeting, but would you prefer a written answer to some of these things?

MR. HINES: Absolutely. When you do that submission to the Board that you say is complete, a cover letter addressing each of those comments, as well as what we talked about tonight, would be appropriate.

MR. LEASE: Okay, great. Thank you.

CHAIRMAN EWASUTYN: Any other questions or comments?

(No response.)

CHAIRMAN EWASUTYN: So if I understand, Dominic Cordisco and Pat Hines will provide you with a guideline of what needs to be done.

MR. CORDISCO: That I'll coordinate with Pat.

CHAIRMAN EWASUTYN: Ken Mennerich.

MR. MENNERICH: Do we circulate for lead agency? Did we ever establish --

MR. HINES: One of my comments was that the timeframe for lead agency has expired. We heard from a majority of the ones. I think the

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Board could declare itself lead agency tonight, now that the project is back before it and they are done with the Zoning Board.

CHAIRMAN EWASUTYN: Would you like to make that motion, Ken?

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich to declare the Planning Board lead agency for the Darrigo Solar Farm.

MR. HINES: It would be for an Unlisted action I believe.

CHAIRMAN EWASUTYN: Dominic?

MR. CORDISCO: That's correct. It would be an Unlisted action.

CHAIRMAN EWASUTYN: Do I have a second?

I'll second the motion. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Unfortunately I haven't read the material that he gave me tonight, so I say no.

MR. HINES: This is not for tonight. This was a procedural matter. We circulated for lead agency to the other interested and involved agencies and we heard back or the timeframe has

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lapsed. It's procedural, not anything to do with tonight.

MR. GALLI: I'll change it to yes.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I had a second by myself. I'm asking for a roll call vote starting with Frank Galli.

MR. GALLI: Yes.

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Yes.

MR. WARD: Yes.

MS. DeLUCA: Yes.

MR. DOMINICK: Yes.

CHAIRMAN EWASUTYN: My only long-term concern that we're not going to address tonight is we're putting a lot of emphasis on the buffer, the landscape plan. My concern with landscaping in general, as it's been applied in the Town of Newburgh, it sort of goes by the wayside. What do I mean by that? Without proper irrigation, without proper watering for so many years for the plants to get established, it can't work. We'll leave that open ended for now. I don't know how you plan on -- as a farmer, Mr. Darrigo probably

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understands the value of irrigation and watering.
I'd like to know more about that at a later date.

MR. WARD: I have one question. What's
the increase of tree clearing compared to the
first plan when we got it until now? How many
acres?

MR. LEASE: I don't know. That's a
good question. I would guesstimate probably
about 4. 4 more acres of tree clearing than what
it was originally, the very, very first
submission. Yeah. Yup. Some of it or most of
it is down near the 84 section in the bottom of
the plan there.

MR. WARD: You put additional panels
down by 84, too, compared to what it was.

MR. LEASE: But the last submission in
February showed that array. That same array. It
hasn't changed from February in terms of the
array. It's the same array.

One thing that did happen is that the
whole project got shifted over to allow for a
much larger buffer. That's one change that
occurred.

MR. WARD: Okay. And I'd like to know

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who didn't get the plan on the Board so you can supply it for them, too. Who didn't get the original plan? Not the landscaping plan.

MR. LEASE: The site plan.

MR. MENNERICH: I got it, John.

MR. GALLI: I got it.

MR. WARD: All right.

MR. LEASE: John, I will remake this plan and re-stamp it.

Here, you take this one. I don't think I have another one. That's it.

CHAIRMAN EWASUTYN: All right, Jeffrey.

MR. LEASE: I'm complete.

CHAIRMAN EWASUTYN: Thank you.

MR. LEASE: I'll be receiving those comments within the next couple weeks maybe? I only ask that because --

MR. HINES: Certainly within the next couple weeks. I'm glad you gave us that much time.

MR. CORDISCO: It will be early next week.

MR. LEASE: Great. Great. Thank you. Thank you very much for hearing us.

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CHAIRMAN EWASUTYN: If there's no further discussion, would someone move for a motion to close the Planning Board meeting of the 5th of November?

MR. GALLI: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. WARD: Aye.

MS. DeLUCA: Aye.

MR. DOMINICK: Aye.

(Time noted: 8:10 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 14th day of November 2020.

Michelle Conero

MICHELLE CONERO