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

----- X  
In the Matter of

BOTRAC PROPERTIES  
(2011-21)

Orchard Drive  
Section 1; Block 1; Lot 133.0  
AR Zone

----- X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: November 17, 2011  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

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MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of November 17, 2011.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Code

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Compliance Supervisor, Town of Newburgh.

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

MR. COCKS: Bryant Cocks, Planning  
Consultant.

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

MS. CALTA: Stacy Calta, HDR, Wireless  
Consultant.

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

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

(Pledge of Allegiance.)

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

MR. PROFACI: The first three items on  
this evening's agenda are public hearings, and at  
this time I'll turn to Michael Donnelly, our  
Attorney, to explain the purpose of a public  
hearing.

MR. DONNELLY: All of these  
applications that have public hearings have been

1  
2 on before the Board in the past. The Planning  
3 Board holds public hearings when it wishes to  
4 hear from the public and seek input or comments  
5 from the public to help the Planning Board decide  
6 the matter.

7 In the order of events here, after the  
8 applicant makes his presentation, the Planning  
9 Board Chairman will ask those who wish to speak  
10 to raise their hand and you will be recognized.  
11 We'd ask you to come forward. That microphone  
12 isn't on so you don't need to approach the  
13 microphone. In order for us to hear you, if  
14 you'd step up, that would be helpful. Give us  
15 your name, tell us your address, if you would, so  
16 we know where you live in relation to the  
17 project. Spell your name for our Stenographer so  
18 we get it correctly in the transcript. We'd ask  
19 you to direct your comments and questions to the  
20 Planning Board. The Planning Board Chairman will  
21 decide if a question can be answered best by one  
22 of the Town's consultants or the applicant's  
23 consultants, and we'll go from there.

24 MR. PROFACI: Thank you, Mike.

25 The first item on this evening's agenda

1  
2 is Botrac Properties. It's a public hearing on a  
3 two-lot subdivision located on Orchard Drive,  
4 Section 1; Block 1; Lot 133, located in the AR  
5 Zone, being represented by Lawrence Marshall.

6 I'll ask Ken Mennerich to read the  
7 notice of hearing.

8 MR. MENNERICH: "Town of Newburgh,  
9 notice of hearing, Town of Newburgh Planning  
10 Board. Please take notice that the Planning  
11 Board of the Town of Newburgh, Orange County, New  
12 York will hold a public hearing pursuant to  
13 Section 276 of the Town Law on the application of  
14 Botrac Properties, LLC for a two-lot subdivision  
15 on premises Orchard Drive in the Town of  
16 Newburgh, designated on Town tax map as Section  
17 1; Block 1; Lot 133.0. Said hearing will be held  
18 on the 17th day of November 2011 at the Town Hall  
19 Meeting Room, 1496 Route 300, Newburgh, New York  
20 at 7 p.m. at which time all interested persons  
21 will be given an opportunity to be heard. By  
22 order of the Town of Newburgh Planning Board.  
23 John P. Ewasutyn, Chairman, Planning Board, Town  
24 of Newburgh. Dated October 27, 2011."

25 MR. GALLI: The affidavits of mailing

1  
2 were sent out. There were sixteen sent out, there  
3 were ten returned signed. Two were returned  
4 undeliverable. The affidavit of publication, it  
5 was published in The Mid-Hudson Times. It did  
6 not make The Sentinel, so the public hearing will  
7 stay open. We will not close the public hearing  
8 tonight until the proper notification is in the  
9 paper.

10 CHAIRMAN EWASUTYN: At which point the  
11 item that's before us now will be on the agenda  
12 for the meeting of December 1st.

13 Larry, would you give your presentation  
14 please?

15 MR. MARSHALL: This is a proposed two-  
16 lot subdivision on the westerly side of Orchard  
17 Drive. It's two lots. They're 1.6 acres in size  
18 and 1.3 acres in size.

19 Each lot would be served by a private  
20 well and sewage disposal system, septic system.  
21 The wells and the septic systems have been  
22 designed in accordance with Orange County  
23 Department of Health standards.

24 The proposed driveways will access --  
25 there will be two proposed driveways, both

1  
2 accessing Orchard Drive. The access for lot 1  
3 will be located in the area of an existing drive  
4 that previously served an old residence that has  
5 since been removed off of this much larger parcel  
6 prior to being subdivided. Lot 2 will access a  
7 new -- will obtain access off a new driveway.

8 CHAIRMAN EWASUTYN: As Mr. Donnelly had  
9 said earlier in the meeting, if there's anyone  
10 here that has any questions or comments, would  
11 you please raise your hand and give your name and  
12 your address.

13 The gentleman in the back.

14 UNIDENTIFIED SPEAKER: Can I just go  
15 see where it is?

16 CHAIRMAN EWASUTYN: Sure.

17 MR. GALLI: Can you explain to him  
18 where it is and where it's at?

19 MR. MARSHALL: Danielle Drive at the  
20 cul-de-sac. It's down here. There's two fairly  
21 new houses that were built here. This is a  
22 vacant parcel. This is where the old barn and  
23 house were, back in here.

24 UNIDENTIFIED SPEAKER: 77 is in here  
25 somewhere?

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MR. MARSHALL: I'm not sure of the exact address.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN EWASUTYN: The gentleman with the cap in the back, please.

MR. COROLLA: I'm James Corolla, I'm 754 Orchard Drive. I have a little bit of a concern about like there's a lot of wetlands back there and my house is bordering a swamp. The way the property is where I'm at, my house is -- the road is here, my house sits here. He wants to put two houses here. It's fine if you want to put a house there, that's great. My major concern is flooding, overflowing with the leach fields, all right.

We had a problem earlier with somebody with all that rain and the major snow melt earlier in the year, and the water was out of control back there. A septic overflowed. We're all the -- there's houses up above me and I'm all the way down here, and the water just -- my house sits here.

Don't get me wrong, I've got no problem with water inside the house. My footing drains



1  
2 were running for weeks after that was done. I've  
3 got small children and I don't need that  
4 contaminated back there. It's already -- it's a  
5 swamp. I mean you're putting houses in the  
6 middle of a hill and the fuel will overflow.  
7 They're going to get saturated. Everything goes  
8 downhill, and that's a major concern of mine.

9 I mean if you go there and look, my  
10 house is at the bottom of a hill and he wants to  
11 put two houses up top. My property is in between  
12 mine and his and it's -- that water is going to  
13 flow right down. Come to my house at the next  
14 rainstorm. I've got two rivers. I've got one  
15 coming down my driveway and I've got one coming  
16 next to the side of my house. Where does the  
17 water go? To the swamp. I'm just like concerned  
18 about overflowing fields. I think it's going to  
19 be too much.

20 I've got a house he's putting up on the  
21 top of my driveway to the left. It's a duplex.  
22 The whole backyard is leach field and septic  
23 tanks. I mean it's a major concern. I had to  
24 have them put in a pipe just to get the water  
25 diverted away from my house, and he paid \$5,000

1  
2 to have that done. The guy built a great house,  
3 but I'm just a little concerned at where my house  
4 sits and how close I am. I'm literally -- when  
5 it rains my backyard is a swamp.

6 You know, the drainage is very poor,  
7 very poor back there. I mean just, you know, if  
8 my house was where he's proposing these houses,  
9 it wouldn't be a problem at all. But my house is  
10 at the bottom of -- my house is horizontal with  
11 the swamp. And, you know, I think you guys  
12 should take a better look at this. One house I  
13 would say all right. Two, too much.

14 CHAIRMAN EWASUTYN: Larry, your  
15 comments on that?

16 MR. MARSHALL: There is a large  
17 wetland, State wetland, behind this gentleman's  
18 house. It runs parallel with Orchard Drive. The  
19 proposed houses that we propose up here are not  
20 -- the stormwater that would leave this site is  
21 not tributary to his land. It is tributary to  
22 the swamp in the back. It is not tributary to  
23 that land.

24 Previously this was for one house which  
25 was actually located much further back with a

1 much longer driveway. We pulled everything up.  
2 We've actually -- we didn't reduce the overall  
3 impervious area but we did reduce the overall  
4 impact to the land by pulling everything up to  
5 Orchard Drive and actually reducing the size of  
6 the sewer system because Orange County changed  
7 their regulations.  
8

9 MR. GALLI: You just said the swamp is  
10 behind his house. These drain into the swamp but  
11 they don't affect his house?

12 MR. MARSHALL: It's not tributary. It  
13 would not flow through his lot.

14 MR. GALLI: How does it get behind the  
15 house?

16 MR. MARSHALL: Because the water  
17 collects in the swamp behind him. The water that  
18 would flow off of this site is actually tributary  
19 to Crinieri's, directly behind.

20 MR. GALLI: So it goes through  
21 Crinieri's lot?

22 MR. MARSHALL: Correct. As it  
23 currently does. There's no change -- there's no  
24 change in the way the water currently flows.

25 MR. GALLI: There's no way they can

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pipe it with some kind of pipe system or something?

MR. HINES: That wouldn't help. This project doesn't meet the threshold to require a stormwater analysis or any stormwater quantity control.

One of the things they've done here, as Mr. Marshall said, was to bring the houses closer to the road. Previously they were further back. They've shown limits of disturbance on the property to reduce the overall disturbed area on both of the lots based on moving the houses forward and limiting the amount of disturbance that they're allowed to perform on the lot. There are the standard notes limiting that disturbance that Karen Arent typically requires on these projects. So the limits of disturbance have been shown and they are reduced to the greatest extent practicable. It doesn't meet the size of a project that would require stormwater management facilities to be installed.

Also with regard to the septic systems, my office has reviewed both septic systems. They were designed in compliance with the Public

1 Health Law based on the percs and deep tests  
2 performed, so they meet the applicable codes.  
3 There is an expansion area also shown should  
4 there be a problem with the septic systems in the  
5 future. Right now the project --

7 MR. COROLLA: That's what I have to  
8 look at, the future. It's great when it's brand  
9 new. Who says that -- who says that the person  
10 that buys the house is going to treat their  
11 septic tank and take care of it? You can't  
12 guarantee that, you know. Think about it. You  
13 know, you get these flooding rains like we just  
14 had with this hurricane and this major snow melt,  
15 you're talking -- you know, you're talking a lot  
16 of water. Where is it going? It saturates. It  
17 comes through the ground and eventually goes  
18 down.

19 Like I said, if my house is where  
20 they're putting it, there wouldn't be no problem.  
21 You wouldn't even see me here tonight. My house  
22 is at the bottom and I'm getting -- you know, I'm  
23 the one that's going to be paying the price.

24 MR. GALLI: Pat, are the topos -- are  
25 these the topos on the map?

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MR. MARSHALL: Yes.

CHAIRMAN EWASUTYN: Additional comments or questions from the public?

(No response.)

CHAIRMAN EWASUTYN: At this point I'll turn to our consultants. Bryant Cocks, Planning Consultant?

MR. COCKS: My only outstanding comment was the inclusion of the 10,000 square foot buildable area requirement. I know Larry said he was including that on the plans. I just haven't seen them yet.

The Orange County Planning Department did send a Local determination.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We don't have any existing or outstanding comments on this. Again, we've reviewed the wells and septic systems on the site.

The limits of disturbance have been added.

I believe we received the sign off from the highway superintendent regarding the driveway access.

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So they've addressed all of our  
comments.

CHAIRMAN EWASUTYN: Jerry Canfield,  
Code Compliance?

MR. CANFIELD: I have nothing to add.

CHAIRMAN EWASUTYN: Frank Galli,  
Planning Board Member?

MR. GALLI: No additional comment.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I just have one. Are you  
saying that with the construction of these two  
homes, that that will not add any additional  
water to this individual's property?

MR. MARSHALL: I'm saying that no water  
from this development is tributary to his land.  
Directly tributary through the buildable portion  
of his land. It is tributary to his wetland.  
That wetland is very vast. It goes for miles,  
north to south essentially. I'm not saying none  
of the water that's coming off of this site will

1 flow past this house or through his lawn area.  
2 It is tributary to a different parcel of land as  
3 it currently flows now.  
4

5 MR. FOGARTY: Thank you.

6 CHAIRMAN EWASUTYN: John Ward?

7 MR. WARD: Basically what you're saying  
8 is the wetlands itself, it's the water table that  
9 goes up from all of the houses around the area?

10 MR. MARSHALL: Correct. And the area  
11 -- the tributary area for that wetland is  
12 massive. Adding an additional house will not  
13 cause any significant change to the rise and fall  
14 of that wetland. The amount of area that is trib  
15 -- the amount of runoff that is tributary to that  
16 area, this is a drop in the bucket compared to  
17 the amount of water that comes from other sites  
18 in this area.

19 MR. WARD: Thank you.

20 CHAIRMAN EWASUTYN: Mike, for the  
21 record would you let the public know where we're  
22 at, because of the power outage, as a result of  
23 the storm that James was just talking about?

24 MR. DONNELLY: The Town of Newburgh has  
25 two official newspapers, and all public hearing



1 notices need to be published in both of those  
2 newspapers before the public hearing may properly  
3 be held. Because of the weather conditions and a  
4 power outage, this public hearing notice was  
5 published in only one of those newspapers. It  
6 now needs to be published in the other one for  
7 the new date, which is December 1st. Therefore  
8 the Planning Board needs to leave this public  
9 hearing open to hear -- to allow that notice to  
10 be published and to hear additional comment at  
11 the December 1st hearing, if the public wishes to  
12 come again. There will be no further mailing.  
13 There's no need for that because everyone was  
14 mailed.  
15

16 CHAIRMAN EWASUTYN: Thank you.

17 We'll have you scheduled for the 1st of  
18 December.

19 MR. MARSHALL: Great. Thank you.

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21 (Time noted: 7:15 p.m.)  
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C E R T I F I C A T I O N

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

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DATED: December 15, 2011

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

----- X  
In the Matter of

VERIZON - 7 MEADOW HILL ROAD  
(2011-22)

7 Meadow Hill Road  
Section 60; Block 3; Lot 35.1  
AR Zone

----- X

PUBLIC HEARING  
SITE PLAN & SPECIAL USE PERMIT

Date: November 17, 2011  
Time: 7:15 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: SCOTT OLSON

----- X

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

1  
2 MR. PROFACI: The next item on this  
3 evening's agenda is a public hearing for the  
4 Verizon - 7 Meadow Hill Road, project 2011-22.  
5 It is a site plan review at 7 Meadow Hill Road,  
6 the Newburgh Mall, Section 60; Block 3; Lot 35.1,  
7 located in the IB Zone, being represented by  
8 Scott Olson.

9 CHAIRMAN EWASUTYN: Did you get a copy  
10 from the Orange County Planning Department?

11 MR. OLSON: I did not get a copy but I  
12 heard they sent one over. Thank you.

13 MR. MENNERICH: "Notice of hearing,  
14 Town of Newburgh Planning Board. Please take  
15 notice that the Planning Board of the Town of  
16 Newburgh, Orange County, New York will hold a  
17 public hearing pursuant to the Municipal Code of  
18 the Town of Newburgh, Chapter 185-57 Section K,  
19 and Chapter 168-16 Section A, on the application  
20 of Verizon - 7 Meadow Hill Road for a site plan  
21 and special permit for the replacement of twelve  
22 collated antennas on the premises Meadow Hill  
23 Road in the Town of Newburgh, designated on Town  
24 tax map as Section 60; Block 3; Lot 35.1, IB  
25 Zone. Said hearing will be held on the 17th day

1  
2 of November 2011 at the Town Hall Meeting Room,  
3 1496 Route 300, Newburgh, New York at 7 p.m. at  
4 which time all interested persons will be given  
5 an opportunity to be heard. By order of the Town  
6 of Newburgh Planning Board. John P. Ewasutyn,  
7 Chairman, Planning Board Town of Newburgh. Dated  
8 October 27, 2011."

9 MR. GALLI: The notice of hearing was  
10 published in The Mid-Hudson Times and in The  
11 Sentinel. Twelve were mailed out, ten were  
12 returned signed, one was returned undeliverable.  
13 The notice of hearing is good. Everything is in  
14 order.

15 MR. OLSON: My name is Scott Olson, I  
16 represent Verizon Wireless. The application you  
17 have before you is fairly straightforward, fairly  
18 simple, and very much like the prior one we did I  
19 think four or five months ago.

20 Verizon currently operates a facility  
21 on an existing 145 foot tower at 7 Meadow Hill  
22 Road. That's behind the Newburgh Mall.

23 We are simply looking to take the  
24 existing twelve antennas that we have on the  
25 tower at the 117 foot level, take them down,

1  
2 replace them with new antennas. The antennas will  
3 be very similar in size, will not be larger. No  
4 height changes to the tower. The tower is not  
5 lit, it will not be lit as a result of this  
6 application. No changes to the ground equipment.  
7 It's just a simple antenna change. We will  
8 change cables but the cables will run through the  
9 inside of the monopole, so you won't even notice  
10 them.

11 CHAIRMAN EWASUTYN: At this point I'd  
12 like to turn to Stacy Calta in the audience with  
13 HDR LMS who is our telecommunication consultant.  
14 She reviews the project on behalf of the Planning  
15 Board in the Town of Newburgh.

16 If you would please speak for us.

17 MS. CALTA: We found the application to  
18 be complete and adequate for the submission for  
19 the switch out of these twelve antennas.

20 For our report we did come up with  
21 three recommendations for the Planning Board, two  
22 of which are more to the applicant to maintain  
23 the regular maintenance that they currently do on  
24 the site per the Town's code, and to make sure  
25 that all of the signage and the required elements

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VERIZON - 7 MEADOW HILL ROAD

23

are there on the site.

The other main recommendation we have was the color of the antennas. That tower is blue, so they need to color match the antennas to the antennas and the pole that is currently there.

CHAIRMAN EWASUTYN: At this point we'll open the meeting to the public. If there's anyone in the audience tonight who has any questions or comments as far as the Verizon tower on Meadow Hill Road, please raise your hand and give your name and your address.

(No response.)

CHAIRMAN EWASUTYN: We'll ask for final comments from our Planning Consultant, Bryant Cocks.

MR. COCKS: My only comment was that the applicant did just receive the Orange County Planning Department Local determination.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have no comments on this application.

CHAIRMAN EWASUTYN: Jerry Canfield,

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Code Compliance?

MR. CANFIELD: Just one question for Stacy. Perhaps you can explain, for the Board's benefit and the public also, the structural analysis that was conducted and your findings.

MS. CALTA: We found the structural analysis -- let me get that part -- to meet all of the required codes that it's required to meet. Since this application, they're not -- you know, they're just swapping out antennas, there shouldn't be any additional loads on the tower whatsoever. But ultimately the applicant is responsible for the adequacy and the design of the analysis and the design that they have for the tower.

MR. CANFIELD: Thank you.

CHAIRMAN EWASUTYN: Any other questions, Jerry?

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No.

MR. MENNERICH: No questions.

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Tom?



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MR. FOGARTY: I just have one quick one. Is this where you see this industry going, instead of building new towers, you'll just be switching out panels, or do you see somewhere down the road that you're going to come before us for an additional tower and along those lines?

MR. OLSON: We have quite a few facilities in your Town now. I don't know what's coming down the road. I can tell you this specific project is just so that we can roll out our 4G, fourth generation, antennas. That's the focus. That's been the focus for the last year or so. It continues to be the focus going forward for 2012. I don't know what 2013 is going to bring. I'm not privy to any information like that.

MR. FOGARTY: Thank you.

MR. OLSON: You're welcome.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comments.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to close the public hearing for the Verizon - 7 Meadow Hill Road site plan and special use permit.

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MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

At this point we'll give the floor to Mike Donnelly, the Planning Board Attorney, to give us conditions of approval in the final resolution.

MR. DONNELLY: As was stated, this is a fairly simple and straightforward application, therefore the conditions are as well. We will include our standard condition which reminds the applicant that any increase in antenna size or

1  
2 the number and size of ground-based equipment  
3 cabinets in the future will need to be approved  
4 by the Town before they move forward. The  
5 applicant must, in the next condition, comply in  
6 its operation of the facility with the Town's  
7 Wireless Ordinance. We'll include the condition  
8 that Stacy mentioned, which is that the antenna  
9 color, mounting structures and coax cable will be  
10 color matched with the existing water tower and  
11 cable colors. The antennas, cables and fencing  
12 around the ground-based equipment and warning  
13 signs must be routinely inspected and maintained.  
14 Finally, we have our standard condition which  
15 says that no facilities that are not shown on the  
16 site plan may be constructed on the site.

17 CHAIRMAN EWASUTYN: Any comments or  
18 additions from Board Members?

19 MR. GALLI: No.

20 MR. PROFACI: No.

21 CHAIRMAN EWASUTYN: Then I'll move for  
22 a motion to approve the Verizon - Meadow Hill  
23 Road site plan and special use permit subject to  
24 the conditions presented by our Attorney in the  
25 resolution, Mike Donnelly.

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MR. GALLI: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes.

Scott, thank you.

MR. OLSON: Thank you very much.

(Time noted: 7:23 p.m.)

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

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

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DATED: December 15, 2011

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

----- X  
In the Matter of

CINGULAR WIRELESS PCS, LLC (AT&T)  
(2011-23)

39 North Plank Road  
(Mid Valley Mall Water Tank)  
Section 75; Block 1; Lot 11  
B Zone

----- X

PUBLIC HEARING  
SITE PLAN & SPECIAL USE PERMIT

Date: November 17, 2011  
Time: 7:23 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN FURST

----- X

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

1  
2 MR. PROFACI: The next item on this  
3 evening's agenda is also a public hearing, a site  
4 plan and a special use permit for Cingular  
5 Wireless PCS, LLC, AT&T, project 2011-23, 39  
6 North Plank Road, the Mid-Valley Mall Water Tank,  
7 Section 75; Block 1; Lot 11, located in the B  
8 Zone and being represented by John Furst.

9 MR. MENNERICH: "Notice of hearing,  
10 Town of Newburgh Planning Board. Please take  
11 notice that the Planning Board of the Town of  
12 Newburgh, Orange County, New York will hold a  
13 public hearing pursuant to the Municipal Code of  
14 the Town of Newburgh, Chapter 185-57 Section K  
15 and Chapter 168-16 Section A, on the application  
16 of Cingular Wireless PCS, LLC for a site plan and  
17 special permit for a co-location on -- for co-  
18 location of antennas on premises Mid-Valley Mall  
19 Water Tower in the Town of Newburgh, designated  
20 on Town tax map as Section 75; Block 1; Lot 11.8  
21 -- 11 in the B Zone. Said hearing will be held  
22 on the 17th day of November 2011 at the Town Hall  
23 Meeting Room, 1496 Route 300, Newburgh, New York  
24 at 7 p.m. at which time all interested persons  
25 will be given an opportunity to be heard. By

1  
2 order of the Town of Newburgh Planning Board.  
3 John P. Ewasutyn, Chairman, Planning Board Town  
4 of Newburgh. Dated October 27, 2011."

5 MR. GALLI: The notice of hearing was  
6 published in The Mid-Hudson Times and in The  
7 Sentinel. Sixty-seven mailings were mailed out,  
8 two were returned undeliverable, forty-seven were  
9 returned signed. The notice of hearing and the  
10 mailings are all in order.

11 CHAIRMAN EWASUTYN: Thank you.

12 MR. FURST: Good evening. My name is  
13 John Furst, I'm an attorney with Cuddy & Feder  
14 and we represent the applicant, AT&T.

15 Believe it or not, this application is  
16 even simpler than Verizon's upgrade which you  
17 guys just had before you.

18 They're looking to modify an existing  
19 wireless telecommunications facility to enhance  
20 existing voice and data communications.

21 The Planning Board originally approved  
22 this site last July of 2010. What AT&T is  
23 proposing is a backhaul antenna. It serves as a  
24 backup to the existing landlines that service  
25 this site and also enhances the speed and the



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reliability of AT&T's existing and voice data.

The antenna itself is only two feet in diameter. It's going to be located on the tank at 118 feet and 8 inches. It will be on the northwest side of the tank, the side that faces the mall. It will be mounted on an existing pipe. It will be painted to match. It can come in gray or white, whatever the Board's preference. It's going to be lower than AT&T's existing antennas. There's going to be no additional site work at grade. We're not going to be increasing the height of the tank, obviously. It will have a diminimous impact on the surrounding community.

If there are any questions, we have our civil engineer from Tectonic as well as a radiofrequency engineer here.

CHAIRMAN EWASUTYN: The Board, at this time once again, would like to turn to our Telecommunication Consultant, Stacy Calta, who is with HDR.

MS. CALTA: Similar to the last application, we found this application to be complete and adequate.

1  
2 We did actually have a couple more  
3 recommendations for this one than the last one.  
4 The routine maintenance and -- the signage and  
5 the routine maintenance, keeping everything up to  
6 the Town's code, along with a color match for the  
7 water tank, similar to the last application.

8 The other two that we had is since it  
9 is a water tank, has the possibility of personnel  
10 that are not RF trained personnel, we require  
11 that the applicant and the owner make sure that  
12 anybody who works on the tower have the RF  
13 training that they need to be on that tower. I  
14 believe the water tank does not store water  
15 anymore. Should the tower, at any, you know,  
16 time in the future store water again, we would  
17 recommend to have a full structural analysis done  
18 at that time.

19 CHAIRMAN EWASUTYN: Thank you. At this  
20 point we'll turn to the public for any other  
21 questions or comments.

22 (No response.)

23 CHAIRMAN EWASUTYN: All right. There  
24 being no questions or comments from the public,  
25 Bryant Cocks, Planning Consultant.

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MR. COCKS: As with the last application, Orange County Planning Department did issue a Local determination.

I have nothing further.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have nothing on this application.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: We have nothing additional. Stacy covered our concerns.

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

MR. GALLI: No additional.

MR. MENNERICH: No.

MR. PROFACI: Just that you had mentioned that the antenna came in white or gray, and we talked about matching the colors that are there, which I believe is a beige color.

MR. FURST: Correct.

MR. PROFACI: That's okay with you?

MR. FURST: I think a white would be a pretty close match to the existing color of the

1  
2 tank. Unfortunately they can't paint the dish  
3 beige.

4 MR. PROFACI: They can't?

5 MR. FURST: No. It's either white or  
6 gray. You can't put a coat of paint over it. I  
7 think it will interfere with the transmission. I  
8 think if you consider the size of the dish, it's  
9 only two feet in diameter. Considering the  
10 location is 118 feet above ground level, somebody  
11 from ground level, to tell the difference between  
12 whether that dish is white or beige, I can't  
13 imagine there would be much distinction between  
14 either color.

15 MS. CALTA: I would think you can paint  
16 the cables and anything going up to the dish to  
17 match the tower. I know in our letter we didn't  
18 have a preference as to the white or gray. I  
19 mean without knowing what color gray, you know, I  
20 don't know that we necessarily have a  
21 recommendation without seeing the colors  
22 themselves. Although I mean I always thought the  
23 tank was white in the first place. It might be a  
24 slightly dirty kind of white.

25 MR. PROFACI: It used to be white.

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MR. GALLI: It's a beige. A light beige color.

MS. CALTA: A light gray or white. Either one would work. Like Mr. Furst was saying, it is so far away and, you know, it is a small size that it shouldn't have any visual impacts being a slightly different color.

MR. PROFACI: Thank you.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I just have one question. You mentioned routine maintenance. Who is in charge of routine maintenance? You have a number of providers who have their equipment on that tower.

MS. CALTA: Each provider comes to a site generally once a month, and they would be responsible for their own FCC signage. The regular -- any other maintenance on the site I would think -- I don't know if it goes to the property owner or the original leaser for the water tank.

CHAIRMAN EWASUTYN: Jerry, can you speak on that? Does the Town have a requirement for some type of annual inspection as it relates

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to maintenance?

MR. CANFIELD: Yes, it does. It would be the tower owner's responsibility.

CHAIRMAN EWASUTYN: And that's on an annual basis?

MR. CANFIELD: I believe so, yes.

CHAIRMAN EWASUTYN: Okay. John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: There being no questions or comments from the public, I'd move for a motion to close the public hearing on the Cingular Wireless PCS, LLC site plan and special use permit.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike Donnelly, Planning Board Attorney, can you give us conditions of approval in the final resolution?

MR. DONNELLY: The first two conditions are those that Stacy just mentioned that relate to the fact that this tower is actually a water tower. The first is that activity should be carried out by radiofrequency trained personnel, and where that cannot be accomplished, it must be in coordination with people who do have expertise in that field. Secondly, a condition survey of the tower will be required before the tower is put back in service. As for the ARB approval, we will require, of course, that you match -- the color match as closely as possible as was just discussed. Any proposed increase in antenna size -- number or size of ground-based equipment shall be approved by the Town prior to implementation of any changes in the future. You're required to maintain the site according to the Town's code.

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CINGULAR WIRELESS, PCS

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A routine inspection and maintenance. And finally the standard condition that no structures may be built that are not shown on the approved site plan.

CHAIRMAN EWASUTYN: Any questions or comments from our Consultants or Planning Board Members?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to approve the Cingular Wireless PCS, LLC site plan, special use permit subject to the resolution that was presented to us by our Attorney, Mike Donnelly.

MR. FOGARTY: So moved.

MR. WARD: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.



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CINGULAR WIRELESS, PCS

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So  
carried.

Thank you.

(Time noted: 7:34 p.m.)

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

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

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DATED: December 15, 2011

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

----- X  
In the Matter of

NYC DEP - DELAWARE AQUEDUCT REPAIR  
(2011-15)

Rondout-West Branch Tunnel  
Section 8; Block 1; Lot 15.2  
B/AR Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 17, 2011  
Time: 7:35 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHRISTOPHER VILLARI

----- X

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

1  
2 MR. PROFACI: The next item on this  
3 evening's agenda is the New York City DEP  
4 Delaware Aqueduct Repair, project 2011-15,  
5 conceptual site plan of the Rondout-West Branch  
6 Tunnel, Section 8; Block 1; Lot 15.2 in Zone  
7 B/AR. There are several representatives here.

8 MR. VILLARI: Yes. Thank you very much  
9 for having us this evening. My name is  
10 Christopher Villari, I'm the Outreach Lead for  
11 the Water For The Future Program to repair the  
12 Delaware Aqueduct.

13 For the benefit of the Stenographer and  
14 for the Members of the Board, I brought a roll  
15 call list of my colleagues who are with me also  
16 from Water For The Future, and the consultants of  
17 the Water For The Future Program.

18 This evening we are going to make a  
19 presentation on the noise modeling analysis that  
20 we have performed. As we have in the past, we'd  
21 like to set up a Power Point presentation.

22 As they're doing that, I do have a  
23 short list of items, as they're starting to set  
24 that up.

25 So again, thank you very much thus far

1  
2 for meeting with us in what we're calling a pre-  
3 application series of meetings, both with  
4 yourselves and with the Planning Board  
5 Consultants.

6 As we have often in the past, I  
7 generally start with a request as for the fourth  
8 Tuesday of every month at 1:30 p.m. we have so  
9 far been granted permission to meet with the  
10 Planning Board Consultants, and we'd like to do  
11 so again this coming Tuesday.

12 CHAIRMAN EWASUTYN: Bryant, is it this  
13 coming Tuesday or the following Tuesday? I  
14 thought it was the 29th, but correct me.  
15 Whatever it works out to.

16 MR. COCKS: The fourth Tuesday is the  
17 22nd. We usually do the last Tuesday of the  
18 month.

19 CHAIRMAN EWASUTYN: It would be the  
20 29th.

21 MR. VILLARI: That's fine with us.

22 CHAIRMAN EWASUTYN: We'll move for that  
23 motion later.

24 MR. VILLARI: So we have a couple of  
25 things that we wanted to discuss that were

1  
2 resultant from the last meeting with the Planning  
3 Board Consultants. One, there was a request for  
4 distribution of the last traffic presentation by  
5 Board Member Ward. I just want to make sure that  
6 that had been -- I had transmitted it to Bryant.  
7 I hope he shared that with the rest of you.

8           The second was particular about the  
9 site plan drawings. The reason I bring that up  
10 is because we have a fairly steep grade as part  
11 of our site plan, and so we wanted to offer up to  
12 the Planning Board the choice between what's  
13 written in the code or what's called out in the  
14 code for two-foot contours and five-foot  
15 contours. So I brought a copy of each kind for  
16 review by the Members of the Board so that you  
17 can make a decision on which you would prefer to  
18 see.

19           CHAIRMAN EWASUTYN: At this point I  
20 think I'm going to refer this, if the Board  
21 agrees, to Pat Hines, and Pat Hines will --

22           MR. HINES: That's actually in response  
23 to a comment that I had made at one of the  
24 meetings.

25           CHAIRMAN EWASUTYN: -- make a

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recommendation to the Planning Board.

MR. VILLARI: So we're going to be switching gears now. As I mentioned, this thus far has been a pre-application series of meetings. In the near future we had intended on December 1st, as I had discussed with the Chairman, but unfortunately our schedule has slipped a little bit. Soon after December 1st we're going to submit the completed site plan application. Around mid December we will also be publishing the Draft Environmental Impact Statement, and we, right now, have pencilled in this room on January 23rd for the hearing. However, I think in some discussions previously we had mentioned if the Board was interested in having a hearing that same evening or if it would take the transcripts and comments issued or given that day in lieu of holding a meeting. So I'd leave it to the Planning Board to decide. If the Board would like to use our transcript, doesn't feel that this room is the appropriate location for the hearing, so I leave that to you.

MR. GALLI: We did discuss that and we're -- as far as the size of the room, I don't

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know how big your hearings usually get. We do have availability to us to maybe the school if we do need a larger size room close by to here.

MR. VILLARI: I'll leave it to you. Whatever you feel is most appropriate.

MR. GALLI: The hearing, we were actually depending on knowing where you were going to have your hearing. If you were going to have one in Newburgh, which you just said you were in January, so we appreciate that.

The only other question we had is on the notification for the people, would you be willing to do a mailing for us.

MR. VILLARI: Yes.

MR. GALLI: Okay. We're good.

CHAIRMAN EWASUTYN: Bryant will talk to you about the requirement of 500 feet.

I think what we'll explore between now and, when is it, the 23rd?

MR. VILLARI: Yes. It's pencilled in. I spoke to the clerk.

CHAIRMAN EWASUTYN: We'll explore closer to the 23rd which room is available, whether it be the Meadow Hill School or the

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Gardnertown School, and we'll make that the better of the two places rather than this room to hold the meeting.

MR. VILLARI: Okay.

MR. MICHAUD: Chris, we are planning on posting, and when we issue the EIS we would be including the location of that hearing.

CHAIRMAN EWASUTYN: Then would you take the responsibility of contacting the local officials at both schools and find out which one would be available and we'll work with that one?

MR. VILLARI: Yes, we can do that.

MR. DONNELLY: What time were you proposing to hold the hearing?

MR. VILLARI: 7 p.m. in general just to give folks time to get home.

CHAIRMAN EWASUTYN: We find most people work and the evening time would be appropriate.

MR. GALLI: I will give you the phone number and name to contact.

MR. VILLARI: Thank you very much. I think that's our list.

With that, I'd like to introduce Daniel Abatemarco who is the senior acoustical



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consultant with AKRF, Water For The Future Program. Now you might want to relocate.

MR. ABATEMARCO: So as Mr. Villari mentioned, my name is Dan Abatemarco with AKRF. I've been working with DEP on the noise impact analysis for this tunnel repair project, and so tonight we'll be talking about that noise impact analysis.

We'll start out discussing the methodology of the noise impact analysis. We'll talk about some of the particulars of the existing noise measurements that were performed at sensitive receptors near the project site. We'll discuss some noise source levels for construction equipment that we expect to be associated with this particular project. We'll show you and discuss the model that we used to calculate the incremental noise levels associated with the construction project. Specifically we'll show you some results for the tunnel excavation phase of construction, and then we'll discuss some of the next steps for the noise impact analysis for this project, and I'll take any questions.

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CHAIRMAN EWASUTYN: I'd be careful.  
This isn't a public hearing, so we're not at the  
point in time where we get public comment.

MR. ABATEMARCO: Understood.

CHAIRMAN EWASUTYN: As was said  
earlier, on the 23rd of January there will be a  
public hearing at which time the public can make  
their comments.

MR. ABATEMARCO: Okay. So we'll start  
out with some of the methodology for the noise  
impact analysis. So that begins with measuring  
existing noise levels in the vicinity of the  
project site. That lets us have a baseline noise  
level to which we can compare the predicted noise  
levels related to the construction activities.  
Then we identify likely construction sources  
associated with the construction project, and  
that comes from a very detailed schedule of the  
construction program. We look at that for each  
phase to determine which sources we'd expect may  
be operating during each phase of construction.  
And then, within each phase of construction, we  
identify a worst-case period or scenario to which  
-- which we would model, and that worst-case

1 period represents the entire phase of  
2 construction so that we're getting the most  
3 conservative analysis for that period of  
4 construction, and it is those worst-case periods  
5 that we model using a three-dimensional computer  
6 noise level calculation model called CadnaA.  
7 What CadnaA does is lets us predict and calculate  
8 specific noise levels at specific locations due  
9 to the construction noise sources. We take the  
10 output from the CadnaA model, the calculated  
11 noise levels, and use those in relation to the  
12 measured existing noise levels, the baseline  
13 levels that I mentioned earlier, to determine the  
14 noise level increment, the amount of increase  
15 that results from construction activities, and  
16 then we can discuss or examine any measures that  
17 may be taken to reduce or affect those noise  
18 level increments, and then compare the noise  
19 level increments to various environmental  
20 criteria to determine potential impacts as a  
21 result of the construction activities.  
22

23 So I'd like to start out talking about  
24 some of the existing condition measurements that  
25 were done in sort of a general way. So what

1 you're looking at here is the results of a noise  
2 level measurement done at a quiet residential  
3 location similar to those that are close to the  
4 project site. You see two things here. The blue  
5 line here is the instantaneous level throughout  
6 the measurement period, which in this case was  
7 twenty minutes. So throughout the twenty minutes  
8 you see that it fluctuates very much. It starts  
9 out low here, although changing. That's some  
10 ambient sounds. That's maybe wind through the  
11 trees, insect noise, birds, noise from very  
12 distant sources. And then you have these  
13 discrete events here where the noise level gets  
14 -- the instantaneous level increases very much,  
15 and then when the event ends it decreases back  
16 down. Also we have this red line, which is the  
17 average or equivalent level known as the LEQ.  
18 That, you know, is just the average of all this  
19 energy throughout the entire measurement period.  
20 So what you have here is that the instantaneous  
21 level is fluctuating over a very wide range, but  
22 that's from, you know, maybe a car passing by  
23 here, or a train, a train horn, an aircraft  
24 overflight. But again, all that energy is  
25

1 included in the average or equivalent level, the  
2 LEQ. The LEQ in this particular instance, this  
3 measurement is 64.4 whereas the maximum  
4 instantaneous level was much higher, it was 90.3.  
5 But the point here that I'm trying to make is  
6 that what we usually use for environmental --  
7 what we always use for environmental noise  
8 analyses is the LEQ level because when you're out  
9 and experiencing this noise, that's the level  
10 that most closely mirrors the human perception of  
11 noise. You wouldn't be thinking that the level is  
12 fluctuating so drastically, you'd be experiencing  
13 it all together, all the energy throughout the  
14 period. That's why we use the LEQ. All the  
15 levels that I'll discuss throughout the rest of  
16 the presentation will be LEQ levels. Any time I  
17 say noise level, that's what I'm talking about  
18 from here on out.

19  
20 So here are some of the measured  
21 existing noise levels, the baseline levels that  
22 were measured near the project site and over the  
23 course of the day. So this first bar represents  
24 7 a.m. to 3 p.m., which would be the first shift  
25 of construction. You see that it ranged from

1  
2 about the low 60s to the high 70s. And then  
3 during the 3 p.m. to 11 p.m., which is the second  
4 shift of construction, it ranged from the high  
5 50s to the high 70s. 11 p.m. to 7 a.m., that's  
6 overnight, would be the quietest part of the day  
7 and third shift of construction, ranged from the  
8 high 40s to the mid 70s. It should be noted that  
9 for the noise impact analysis the baseline level  
10 to which the construction noise levels are  
11 compared, so this is our baseline level. What we  
12 assume is the existing level currently is always  
13 the minimum -- the minimum for each shift. We're  
14 always using the minimum, and that lets us have  
15 the maximum noise increment as a result of  
16 construction.

17 So here are some common noise levels in  
18 various places or from various sources. So some  
19 of the ones that would be the most relevant to  
20 this particular project and the existing levels  
21 we found near the project site would be a busy  
22 traffic intersection. So that would be locations  
23 that would be close to Route 9W, and those levels  
24 are from 70 to 80 decibels. Again, those are  
25 some of the higher levels that we did measure in

1  
2 the mid to high 70s. Or you have the suburban  
3 areas with medium density transportation which  
4 has levels from around 40 to 50 decibels, and  
5 those are some of the quieter levels that we  
6 would have measured which are not close to Route  
7 9W, on some of the side streets or more  
8 residential streets in the area. And then of  
9 course other levels as high as the military jet,  
10 which is very high, and then very low levels like  
11 a whisper or a 30. We're mostly concerned with  
12 those levels more in the middle, similar to those  
13 we measured.

14 So here are some pictures and reference  
15 noise levels for various pieces of construction  
16 equipment like those that we might expect to be  
17 part of this construction project. We have a  
18 bulldozer, a generator, an excavator, a crane.  
19 Not all of these pieces of equipment may  
20 necessarily all be operating together on the site  
21 all the time. These are just some of the types  
22 of equipment that we account for in the noise  
23 impact analysis.

24 Here is a more complete list of  
25 construction equipment and their respective noise

1 levels. Again, not all of this operating is all  
2 the time but these are the types of pieces of  
3 equipment that we've accounted for and the  
4 reference levels that we've used from them which  
5 come from either Federal or State published  
6 documents, reference documents, or right from  
7 vendor information for the particular piece of  
8 equipment that we expect will be used.  
9

10 So what we do with all that information  
11 is then to make a model and calculate the  
12 expected noise levels during construction for  
13 each phase. So as I mentioned earlier, we  
14 identify the worst- case period or scenario for  
15 each phase of construction and we apply the  
16 CadnaA model to that worst-case period. What the  
17 CadnaA model takes as its inputs, including model  
18 -- ground topography features, the terrain of the  
19 site, it takes the buildings and roads in the  
20 area and on the site, and it takes the noise  
21 sources that are related to construction. So  
22 that includes the on-site equipment that I  
23 mentioned earlier and also construction-related  
24 vehicle trips on road -- traveling on roads to  
25 and from the site, including workers coming to



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and from the site and also trucks to and from the site delivering materials or equipment.

So with all those inputs we're able to calculate the noise levels due to construction at any location near the project site. And we do those calculations for the worst-case hour of each construction phase, the very peak hour, and that's what we compare to those minimum baseline levels that we've measured near the site.

Here is a 3D snapshot that comes from the CadnaA model. Just to get oriented here, this road in the corner, that's Route 9W. This road is, I believe, Pine Road coming right off of Route 9W. This road here is a road that would be on the site for trucks to access the site. The blue figures are specific noise sources such as on-site equipment like construction -- I'm sorry, concrete mixer trucks or cranes, excavators. And you can also see the topography here. You can see how the site slopes upwards here and it's kind of flattened off there. You can see, you know, hills in the distance further out from the site. All that is included in the noise level calculation that the model is doing

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based on the inputs that we've given it.

This particular scenario is from the tunnel excavation phase of construction, and we have this box here that enumerates some of the primary noise sources in that phase, including the site road which the trucks are traveling on this road within the site, concrete mixer trucks which are stationary with doing the concrete mixing, and vehicular trips on Route 9W, again worker trips or construction deliveries.

Here are some results from the model. These colored lines represent different noise levels as a result of construction. These are only the incremental construction-generated noise levels. So you can see this line -- it's probably hard to see but this orange line represents 55 decibels, this red line 60 decibels, and then anything in between them would experience a construction noise level in between that. So you see you have the highest levels very close to the site or the roadways where you have vehicle trips accessing the site, and then they decrease as you get further out. You can see how the noise levels follow the ground

1  
2 topography a little bit where there's hills or  
3 valleys. This is essentially the output that we  
4 get from the model so that we can predict noise  
5 levels that would be experienced at various noise  
6 sensitive receptors close to the project site.

7           The next steps, now that we have these  
8 models, are to determine the incremental noise  
9 levels by combining the construction noise levels  
10 with the baseline levels, and we can tell how  
11 much -- we can predict how much the noise level  
12 would increase as a result of construction  
13 activities. We would do this analysis for each  
14 shift, so at various times of the day, and also  
15 for each phase of construction because the  
16 construction will have several phases, each of  
17 which has its own specific activities. And those  
18 results will of course be presented to the Town  
19 in the EIS.

20           I guess I won't be doing the questions.  
21 That's the noise impact analysis.

22           CHAIRMAN EWASUTYN: Thank you.

23           MR. VILLARI: We wanted to kind of go  
24 through this kind of means and methods  
25 presentation on how we developed the noise

1  
2 impacts and how we'll ultimately develop the  
3 noise mitigation that is reflected in the EIS.  
4 We wanted to go through this before you had an  
5 opportunity to read the EIS so that you had your  
6 bearings.

7 CHAIRMAN EWASUTYN: Once you do have  
8 the EIS, there will be a copy of it in the Town  
9 Hall for anyone who wants to come in and look at  
10 it.

11 MR. VILLARI: The Draft EIS. Yes.

12 MR. MICHAUD: It will also be on the  
13 DEP website. You can work with the Town to have  
14 a link from the Town's website to our website.

15 CHAIRMAN EWASUTYN: Mike, I think we  
16 did that with The Marketplace also.

17 MR. DONNELLY: Yes. It's a requirement  
18 of the law, as far as it's practicable to do so,  
19 you have a link or you have the information  
20 posted on the site. It's worked in the past. We  
21 would appreciate you doing that.

22 CHAIRMAN EWASUTYN: Aye.

23 Thank you.

24 MR. VILLARI: Thank you very much.

25 CHAIRMAN EWASUTYN: I'll move for a

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motion to set the NYC DEP Delaware Aqueduct Repair for a consultants' work session for November 29th at 1:30 in the afternoon.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Thank you.

Anything else?

MR. VILLARI: That's it.

MR. GALLI: Contact her as soon as possible. There's like a month lag.

CHAIRMAN EWASUTYN: Excuse me?

MR. GALLI: I just told him to contact the school as soon as possible. There's a month

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lag for approval for the school.

MR. VILLARI: I'll follow up with you about the resubmittal of the --

CHAIRMAN EWASUTYN: I did mention that to the Board when I came in this evening, that we had discussed that, because that's just how -- it's a responsibility to work for them. I'm just a waiter who is responsible for serving them.

MR. VILLARI: I'll contact you next week?

CHAIRMAN EWASUTYN: Please. Thank you.

MR. VILLARI: Thank you.

(Time noted: 7:59 p.m.)

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

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

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DATED: December 15, 2010

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

----- X  
In the Matter of

PETERBILT - UTICA TRUCK GENERAL  
(2011-25)

Former 84 Lumber Site - Route 17K  
Section 86; Block 1; Lot 35.12  
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 17, 2011  
Time: 8:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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



1  
2 MR. PROFACI: The next item on this  
3 evening's agenda is Peterbilt - Utica Truck  
4 General, project number 2011-25. It's a  
5 conceptual site plan on the former 84 Lumber  
6 site, Route 17K, Section 86; Block 1; Lot 35.12.  
7 It's located in the IB Zone and being represented  
8 by Charles Brown.

9 MR. BROWN: This application is for the  
10 8.8 acre parcel. It was formerly the 84 Lumber  
11 facility. It's got frontage on Pomarico Drive,  
12 which is a private road, and Racquet Road, which  
13 is a Town road.

14 The proposal is to use the existing  
15 building, which is 17,300 square feet, for the  
16 repair of trucks and for the sale of parts. The  
17 remaining building is on site of those. One of  
18 them will be removed, that's 8,000 square foot.  
19 It is a canopy. It's open front and back. It  
20 just has walls on the end. The other 8,000  
21 square foot building will remain. That's of  
22 similar construction. The smaller one, which is  
23 about 4,000 square foot, that one does have a  
24 wall. We'll relabel that as a shed.

25 We're not going to increase any

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impervious area.

That pretty much sums up the application. We're here for Planning Board and Consultant comments.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Could you just expand on the use of the site? I mean I know you said it's going to be truck repair and retail. Is the retail component just walk in to buy any parts or is it contracted out?

MR. BROWN: It's for truck parts, similar to what they're using for repair of the trucks.

MR. COCKS: Okay. So that's open to the public?

MR. BROWN: Right.

MR. COCKS: And the truck repair, there's going to be no parking of trucks in the gravel parking lot even as like staging or anything like that?

MR. BROWN: We did show three spaces over here by the existing canopy to remain, and that was for three -- it would just be the cabs.

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2 It won't be the trailers on these. Those are set  
3 up to be 30 by 10. They're big enough to  
4 accommodate the cabs. That's the maximum that  
5 they would be on site.

6 MR. COCKS: You're requesting to go to  
7 the ZBA in the narrative for signage where 25  
8 square foot is allowed and you'd like to request  
9 59 square foot.

10 MR. BROWN: That's for the sign on 17K.  
11 The applicant is actually purchasing both pieces  
12 of property and the road itself also. That's  
13 based upon the frontage on 17K for that side.  
14 The signage on the building, for that they use  
15 the frontage all along Pomarico Drive. We don't  
16 need a variance for that. Actually there's a  
17 substantial amount of frontage, 800 feet, so  
18 we're okay with that. That's for the sign.

19 MR. COCKS: Okay. Could you just  
20 include a detailed signage chart with both?

21 MR. BROWN: For the building also?

22 MR. COCKS: For the building. We're  
23 going to need to see it for the ARB. The sign as  
24 well.

25 While you are at the ZBA, though, I

1  
2 believe you're going to need two more variances.  
3 One was for the total floor area of the storage  
4 buildings. It's only allowed to be 50 percent of  
5 the principal building in the IB District.

6 MR. BROWN: Right. I saw that on your  
7 comments. Thank you for those. I guess the way I  
8 would approach that is we would just go for a  
9 variance based upon the next comment. We would  
10 go for a variance on this shed here because it's  
11 in the front. It's further forward than the  
12 primary building.

13 MR. COCKS: Yes.

14 MR. BROWN: The other canopy building  
15 by itself is under 50 percent, so I would go for  
16 the variance. Two variances for that. Right.

17 MR. COCKS: Okay. And in the bulk  
18 tables, since it's also a retail, could you just  
19 revise that to show the motor vehicle service  
20 station is the most intensive use?

21 MR. BROWN: The service would be the  
22 most intensive.

23 MR. COCKS: I think there was --

24 MR. BROWN: It's actually broken out in  
25 the parking calculations, but I'll put it in the

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bulk table, too.

MR. COCKS: Okay. The parking lot, I know Pat Hines is going to discuss this also. Every other site plan that the Planning Board has approved over the last couple years, even existing sites, the applicant has upgraded the parking lot to include curbs and drainage to meet the Town of Newburgh standard. I know this is an existing lot but it's been the Board's policy that I believe we are going to have to upgrade that parking lot from its existing state.

The fencing along the parking lot, I know it said to be removed. Were you only talking about the gate on the entrance or the full fence?

MR. RAAB: The full fence across on Pomarico Drive.

MR. COCKS: That brings up the design guideline issue of not having parking in the front yard, and there's -- it's really right up against the property line, so there's no way to mitigate having the parking to be able to block the radiators on the cars with either a stonewall, or landscaping, or fencing. The

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Planning Board is going to have to discuss --

MR. BROWN: Again, the applicant is purchasing Pomarico Drive. So we do have flexibility there where we could do things within that right-of-way.

MR. COCKS: Okay. So that would work on the next submission.

As mentioned, architectural drawings will be required.

I believe those are all of my comments.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Just one question, or actually a point. If we can reiterate what Bryant was talking about, on the repair -- truck repair component of this application; Charlie, if I understood you correctly, you're saying there will be no more than three tractors there at one time?

MR. BROWN: Stored outside. Repair work will be done inside the building. It's a very large building. There's room in there for a dozen trucks; right?

MR. KEVIN DONNENWIRTH: I would say 14

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to 16.

MR. BROWN: This is my client, Kevin  
Donnenwirth from Utica General Truck.

MR. KEVIN DONNENWIRTH: I'm Kevin  
Donnenwirth.

MR. BROWN: And his brother Mark.

MR. MARK DONNENWIRTH: I'm Mark  
Donnenwirth.

CHAIRMAN EWASUTYN: Gentlemen, do you  
have business cards?

MR. MARK DONNENWIRTH: Yes, sir.

CHAIRMAN EWASUTYN: Can you please give  
them to the Stenographer so she can get the  
proper spelling of your last name? Thank you.

MR. BROWN: Actually, that brings me to  
my next point, which is the parking. We prefer  
not to do the striping in front of the building.  
Actually, based upon their experience with this  
type of facility, the parking spaces that were  
shown striped are more than sufficient. I'd also  
request that be included and we go for a variance  
for the parking also, in the referral for the  
variances.

MR. DONNELLY: It's not a question of

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whether you meet the minimum required. You don't want to stripe it is what you're saying?

MR. BROWN: Correct.

MR. DONNELLY: I think to demonstrate that you have the minimum you have to at least, on your plan, account for it so we know.

MR. BROWN: One of the comments was that we have to stripe it. We would rather go for the variance. Again, they have four other facilities like this and they don't come close to using what we're showing striped. Since we're going to ZBA anyway, the Zoning Board anyway, we might as well go for a parking variance also.

MR. DONNELLY: Does the code command that there be striping?

MR. CANFIELD: The parking lot requirements do.

MR. HINES: What's the reason why they wouldn't be striped?

MR. BROWN: They don't need them. They don't need the spaces. Typically on other applications in other towns, and I know this is not another town, but they've allowed us to show the parking is available but we're not required



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to build it and/or stripe it until it's deemed necessary. This is all existing blacktopped area. They don't need it for the parking.

CHAIRMAN EWASUTYN: Charlie, why wouldn't you take the 12 spaces that are proposed in the front to soften the impact of the project and move those 12 spaces where right now we're discussing whether they be striped or unstriped and just move everything back off the main road?

MR. MARK DONNENWIRTH: That would just be because of the swing of a tractor trailer, sir, as it pulls into the building. The tractor trailers, they have to swing wider. It would be easier for them to swing near the building rather than cut that corner while turning in.

MR. WARD: If it's a tractor trailer without a trailer on it, that's not supposed to be there, you don't need that wide turn.

MR. KEVIN DONNENWIRTH: They will come. It is certainly part of the industry that a truck will come to the facility with a trailer. It is not a trailer repair facility. To say that there would not be someone showing up there without a truck and a trailer, I can not say that. As they

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2 come into the yard with a truck and trailer, you  
3 know, there needs to be some swing room, you  
4 know. That's why we're removing the one 8,000  
5 square foot building, so there's a place for a  
6 man to pull in with a truck and trailer and get  
7 turned around so that he can exit.

8 MR. DONNELLY: What happens to the  
9 trailer while you're working on the cab?

10 MR. KEVIN DONNENWIRTH: It is not the  
11 norm for the guys to bring their truck for repair  
12 and to bring their trailer. Typically that stays  
13 -- you know, either it is at a dock where it's  
14 being loaded or unloaded, it is at their place of  
15 business, you know. They wouldn't bring the  
16 truck and trailer to me typically for us to work  
17 on the truck, they would just bring the truck.

18 MR. DONNELLY: In the case where they  
19 do bring the trailer, where would you propose to  
20 store that while the work was being done on the  
21 cab?

22 MR. KEVIN DONNENWIRTH: At that point I  
23 would say it would probably be in one of the  
24 provided parking spaces that they show on the  
25 drawing.

1  
2 MR. CANFIELD: Excuse me. John,  
3 there's concerns with this, and that's why I  
4 raised the point originally, because Charlie had  
5 originally said there would be no trailers on  
6 site. For future submissions, that needs to be  
7 cleaned up, okay. I think this Board needs to see  
8 what it is actually that we can expect to see if  
9 this should be approved. It needs to be shown.

10 MR. BROWN: Okay.

11 MR. CANFIELD: There's a section of the  
12 Zoning Code, Charlie, that perhaps you may want  
13 to look at. It's 185-28. This occupancy is  
14 classified -- or the closest thing in zoning that  
15 classifies this is a service station or repair  
16 facility. In there they have specific guidelines  
17 as far as outdoor storage, and that's exactly  
18 what we're talking about. So that's the point  
19 that I was trying to make.

20 MR. BROWN: That's the five spaces?

21 MR. CANFIELD: It also talks about  
22 after hours what can be put outside, what can not  
23 be left outside. If you're proposing something  
24 beyond those regulations, I think this Board  
25 needs to be able to see that, the consultants

1  
2 need to see that so we can make a determination,  
3 specifically my department, if it complies with  
4 the intent of 185-28. Just for future  
5 submissions.

6 MR. BROWN: That's the five spaces in  
7 addition to the employees. I can show, again,  
8 the five spaces. Of the five, I mean maybe one  
9 would be -- at most, right, one would be a  
10 trailer? I can certainly show that on here.

11 Let me back you up a little bit to the  
12 parking against the building. You wouldn't -- I  
13 mean, in other words, the Planning Board, or Pat,  
14 you're not going to ask us to put curbing along  
15 the building there? That's at grade right now.  
16 It's fine for handicapped access and all the rest  
17 of that. I could reconfigure this so we could  
18 get the trucks through, take the parking out  
19 that's facing Pomarico Drive and put all the  
20 parking along the building, and that's more than  
21 enough for my clients. We'll show the -- per  
22 Section 185-28, we'll show storage of the  
23 vehicles for a repair shop.

24 MR. CANFIELD: Relative to the trucks,  
25 you need to identify other trucks you're speaking

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of. Trailers? You have delivery trucks for delivery of the parts that you'll be selling?

MR. KEVIN DONNENWIRTH: Typically once a day. Typically once a day there is a freight truck, a delivery truck that shows up and we offload a pallet of parts, --

MR. CANFIELD: Is that a trailer?

MR. KEVIN DONNENWIRTH: -- and then he will turn around and exit.

MR. CANFIELD: That's a trailer?

MR. KEVIN DONNENWIRTH: Yes.

MR. CANFIELD: Perhaps the narrative in the site plan should show that. I think the Board was somewhat misled when Mr. Brown had stated that there will be no trailers. We just need to clear that up so we all know what we've been talking about.

MR. KEVIN DONNENWIRTH: We've been in our location in Albany, New York for ten years and I am certain that tonight there is not a trailer in the yard. It's just -- it's not the focus of our business. If you were taking your car to the garage to have it repaired, you would not bring your boat, you would leave it home.

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When your car is repaired, you would go get your boat and go on your merry way.

MR. CANFIELD: Unless your car and boat broke down en route somewhere.

MR. KEVIN DONNENWIRTH: We hope that doesn't happen.

MR. GALLI: I think the reason they're bringing that up is because you're in close proximity to 84, and if a Peterbilt truck breaks down at that exit and he's got a trailer on the back, we're hoping he's not going to dump the trailer at Pilot and then come over to you to get his truck serviced. I'm sure he's going to bring his tractor and his trailer. We don't want to see an abundance of trailers on the property.

MR. KEVIN DONNENWIRTH: I assure you we don't either.

MR. GALLI: The narrative said there was going to be no trailers on the property. We had concerns at the workshop how you're going to operate a business if there's not going to be any trailers on the site when tractors pull trailers and 84 is right there. So that's the concern we had. We read the note on the plan.

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MR. HINES: I believe the note says no outdoor storage of trucks.

MR. GALLI: That, too.

MR. HINES: That's the concern. I mean I can't envision a truck repair facility that doesn't have trucks parked outside. Arkel Motors in New Windsor comes to mind. There has to be 50 vehicles parked outside. They're an International dealer. Maybe you run your business different. If we have a note on the plans that says no outdoor storage of trucks, you're going to be boxing yourself in to no outdoor storage of trucks.

MR. MARK DONNENWIRTH: Arkel is a full dealership. We're not looking to sell out of our location. He does have new trucks on display.

MR. HINES: Correct.

MR. CANFIELD: This is a dealership also?

MR. MARK DONNENWIRTH: Arkel?

MR. CANFIELD: No. Yours.

MR. MARK DONNENWIRTH: No, no. We're going to do parts and service.

MR. CANFIELD: I see.

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MR. HINES: I want to really clarify --

CHAIRMAN EWASUTYN: We have an understanding of this, and I think it's something we're going to look at later on. I don't think we want to continue talking about it.

MR. HINES: I just want to make sure you understand and the Board has an understanding of what's going to happen here so we can get it all on the plans and it doesn't cause a problem for either entity in the future as this moves forward.

MR. GALLI: I have a question for Mike Donnelly. Mike, I heard him say twice they're going to purchase the road.

MR. BROWN: It's a separate parcel. Right.

MR. GALLI: They're going to purchase Pomarico Drive? They're going to own it, control it, maintain it?

MR. DONNELLY: We heard that they're going to purchase it. That would mean they own it. I assume once you do, you would maintain it. You're talking about the part that is not currently improved?



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MR. BROWN: It's in the same ownership as the subject -- as the former 84 parcel right now. It's two parcels, 8.8 acres and a parcel that contains Pomarico Drive.

MR. DONNELLY: It's not improved all the way, is it?

MR. BROWN: No.

MR. GALLI: They have to bring it up to Town private road specs?

MR. DONNELLY: I'm trying to find out what you're going to do with it. You're going to leave it just as is or lengthen it?

MR. BROWN: No. Leaving that and the entrance as is.

MR. CANFIELD: Doesn't that road serve a residence or two?

MR. BROWN: Several.

MR. WARD: Three.

MR. GALLI: There has to be a maintenance agreement?

MR. DONNELLY: I think it would be a good idea for everybody. I don't know who you're buying it from.

MR. RAAB: I believe there's a

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maintenance agreement in place. We'll supply Mike with a copy of it.

MR. GALLI: Does it have to be brought up to private road specs?

MR. DONNELLY: No. It's just a change of ownership. You're not proposing to do anything with it. Is it adequate for the trucks that are going to come in or out? I mean that's a different --

MR. KEVIN DONNENWIRTH: They came in and out before, sir, when it was 84 Lumber.

MR. DONNELLY: I wouldn't know. That's why I'm asking.

MR. BROWN: Yes, it is adequate.

MR. FOGARTY: John, is there going to be like a lighting plan or --

MR. RAAB: We have a lighting plan.

MR. BROWN: We submitted a lighting plan with this application.

MR. FOGARTY: What about a noise analysis? Is there going to be additional noise, more from this project than from what was in there before or --

MR. BROWN: I don't see how there would

1  
2 be. All the repairs of the trucks, again, will  
3 be done inside the building and, you know, with  
4 the new law now they're not allowed to leave  
5 trucks idling outside. It would be just like when  
6 84 Lumber was doing deliveries or taking  
7 deliveries, the in and out traffic. As far as  
8 the actual operation itself, it shouldn't  
9 generate any noise outside of the building. It  
10 will all be contained within the building.

11 MR. FOGARTY: Just one other thing,  
12 John. I would like to see the 25 foot sign that  
13 is allowed in that area be maintained. I think  
14 you're going to 59 foot.

15 MR. WARD: Square foot.

16 MR. BROWN: Square foot.

17 MR. FOGARTY: I think it allows 25.

18 MR. BROWN: Based upon the frontage.

19 MR. RAAB: The frontage on 17K.

20 MR. BROWN: Both sides of the sign face  
21 count. You can end up with a very, very small  
22 sign. In other words, half the 25 is 12 square  
23 feet.

24 MR. FOGARTY: I've got you. It's not  
25 that much larger than what's there now; right?

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MR. FOGARTY: Just a thought.

CHAIRMAN EWASUTYN: Pat Hines, your comments please.

MR. HINES: My first comment has to do with this Board's policy of requiring commercial site plans to have conventional curbing and paved parking for at least the public portion. So the Board has consistently required that. Even for residential houses converted over to offices it's required that.

I just note on the plans that there's a proposal to continue to use the bumper blocks or install new concrete bumper blocks on the site. It's certainly a Board decision but it's been your policy in the past to require commercial sites to upgrade to that Town standard.

The other comment has to do with striping those 17 parking spaces. I think if the intent of the design guidelines could be met with changing the front parking to a more landscaped area and those parking spaces be delineated, or some portion of them, to meet what is required by the code, it could be implemented. That may serve the needs of the Board based on the work

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session discussions.

MR. BROWN: I did play with the truck again, just the cabs, and then I did put a full rig in there to see what would happen. They do have sufficient room to turn around with the removal of this building, and they do make this -- the way the geography is right now, pretty tight, just clipping those 17 unstriped spaces. With a little bit of geometry change on the curb of that island, I can put the spaces in front of the building and remove those. If that eliminates the need for curbing, we also would be reducing the impervious area.

MR. HINES: I don't know that it eliminates need for curbing but I think it will go more towards meeting the intent of the design guidelines to screen the parking.

MR. BROWN: It give us more area for the landscaping also.

MR. HINES: There's an existing sanitary pump station on the site. We're looking for some information on that to make sure that will serve the site. I don't know what the previous flows from the site were. If you can

1  
2 give us a quick analysis on that to make sure the  
3 site complies with the previous sewer flow on the  
4 site. If it needs additional flow, a City of  
5 Newburgh sewer acceptance letter for that  
6 additional flow would be required.

7 The existing 8,000 square foot canopy  
8 to be removed. It doesn't address what's going  
9 to be put in that place, whether it's asphalt  
10 pavement, gravel surface.

11 MR. BROWN: Just gravel.

12 MR. HINES: That should be shown.

13 And our last comment has to do with the  
14 no outdoor storage of trucks. I think that your  
15 client should take a look at what they really  
16 want to put on this site. If there is that,  
17 let's make provisions for it so what you need on  
18 the site is shown so we don't get into an issue  
19 with the building department in the future for  
20 that.

21 Those are the comments we have.

22 CHAIRMAN EWASUTYN: Comments from Board  
23 Members. Frank Galli?

24 MR. GALLI: I think the proposed  
25 project, if you're going to put it up against 84

1  
2 Lumber, probably in 84 Lumber's hey day 84 Lumber  
3 probably created more traffic than this probably  
4 will. Of course 84 Lumber was going out and  
5 there was no traffic there. I think that's where  
6 we're going to run into a situation when people  
7 are going to be coming out, the traffic. You have  
8 to realize that when it's zoned B, and the  
9 traffic that used to be there, there's going to  
10 be a lot more than what I think this is going to  
11 generate as a repair facility than what 84 Lumber  
12 did when it was constantly going.

13 The hours of operations, I see you  
14 don't operate on Saturday.

15 MR. KEVIN DONNENWIRTH: We do a parts  
16 business from 8 o'clock in the morning until noon  
17 on Saturdays.

18 MR. GALLI: You're closed Sundays?

19 MR. KEVIN DONNENWIRTH: It is not a  
20 shop area at all. It's just parts retail.

21 MR. GALLI: The shop area is open from  
22 8 to 6 or 7 to 6?

23 MR. KEVIN DONNENWIRTH: Actual open  
24 hours are from 8 to 5. You have to give a little  
25 bit of an overlap.

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2 MR. GALLI: The hours of operation are  
3 even less than 84 Lumber was.

4 CHAIRMAN EWASUTYN: Ken Mennerich?

5 MR. MENNERICH: I remember when 84  
6 Lumber was going in, the two big issues  
7 concerning the site were the landscaping for the  
8 houses, the residential houses opposite -- on the  
9 other side of Pomarico Drive. The other thing I  
10 think I remember was there was a drainage concern  
11 on that road. So I don't know if you looked at  
12 that or not, but --

13 MR. RAAB: If I can speak to first the  
14 landscaping. What we did is we took the  
15 landscaping from the 2006 site plan and put it on  
16 this site plan. Exactly what was approved for the  
17 2006 site plan approval we put on the site plan.  
18 We can put more on now that we switched the  
19 pavement around. We did have landscaping  
20 proposed for the front, directly, you know,  
21 across the street from this house right here.  
22 This house right here. That's the one that's  
23 most impacted by the main building itself.

24 What was the other part?

25 MR. MENNERICH: Drainage.



1  
2 MR. RAAB: The problem with the  
3 drainage on Pomarico Drive has to do with the  
4 culverts that are underneath the driveway. I took  
5 substantial pictures of this area right through  
6 here, and these -- all of the culverts underneath  
7 these two driveways are clogged. So what happens  
8 is the water backs up into the actual diner  
9 property, the Voluce property. That's the  
10 drainage issue right there. I would have to look  
11 and see how they addressed it with 84 Lumber, but  
12 most of the on-site drainage is picked up by an  
13 on-site swale that takes it to the back. All the  
14 parking lot is picked up by an on-site swale that  
15 takes it right down along the fence line and in  
16 the detention area in the back.

17 MR. GALLI: Is there anything in the  
18 maintenance agreement about cleaning out the  
19 culverts and keeping them maintained?

20 MR. RAAB: That's something we're going  
21 to have to find out.

22 MR. GALLI: For maintenance or  
23 something of the culverts to keep the water from  
24 backing up if there is a drainage problem.

25 MR. RAAB: And to redefine the swales.

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MR. GALLI: Mike, is that something that can be done?

MR. DONNELLY: Yes. Let's look and see what the agreement says.

MR. MARK DONNENWIRTH: We don't know of any maintenance agreement. It's just an easement, a usage easement.

MR. GALLI: Normally in the Town we require maintenance agreements.

MR. DONNELLY: We can't force the other people to agree, but if there's a problem that interferes with the ability for this site to operate, we can require this applicant to maintain it, and hopefully they can shift some part of the burden to those that also benefit from the roadway. It might be an opportune time to try to map that out if they can. If the neighbors agree, they would benefit certainly.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Charlie, although I realize those three homes are pre-existing nonconforming, I just would ask that you take specific and special concern about the front of the building and the way it looks and trying to

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make it a little bit more dressed up so that those folks who live on that road have something better to look at.

MR. BROWN: Yes. Improve it overall.

MR. PROFACI: Yup.

MR. BROWN: Understood. Again, the main building is the one that's, you know, really the most visible. This is pretty dense with the tree lines, this green canopy. Again, by reconfiguring the parking and putting it here, that gives us more area for landscaping in there.

The building itself, this one I'm not doing the drawings for, we will be going for the ARB, but this is what they submitted so far.

MR. PROFACI: That's the building to the far left?

MR. BROWN: The main building.

MR. PROFACI: Okay. So that's not yet showing any kind of landscaping or --

MR. BROWN: Not on here.

MR. RAAB: Not on the front of it, no.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: One additional question.

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The landscaping you showed before was the landscaping in front of that main building?

MR. RAAB: That's right.

MR. BROWN: Proposed.

MR. RAAB: That's what was proposed for the 2006 site plan. We're proposing the same thing for this site plan.

MR. FOGARTY: Okay.

MR. RAAB: We'll beef it up a little bit more.

MR. FOGARTY: I'm sure Karen will have comments on it.

MR. RAAB: Although she did approve that site plan.

MR. FOGARTY: Thanks.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: My concern is coming into the site from 17K, you've got three driveways right in a row.

MR. BROWN: Both driveways are --

MR. WARD: Out by 17K, by Mobil and Stewart Diner. Now you've got enough tractor trailer trucks. Frank says with 84 Lumber you had more traffic but you didn't have other

1 projects that were already there now. So I think  
2 there should be a traffic study one way or  
3 another. If you're going to go volume, we need  
4 to see it. Another thing is, you know as well  
5 as I do that we have guidelines for a reason for  
6 a parking lot. I say it should be blacktopped  
7 and curbs.  
8

9 MR. KEVIN DONNENWIRTH: You're  
10 proposing, sir, that we blacktop the entire yard?

11 MR. WARD: No. Where you're going to  
12 have the building and where you're having  
13 parking. It's a parking lot.

14 MR. MARK DONNENWIRTH: It's already  
15 blacktopped there.

16 MR. WARD: I'm asking for new blacktop  
17 to make it -- you're building a site. You have  
18 tractor trailer trucks going there. You're going  
19 to have seepage and everything else. You have a  
20 fair amount of environmental all around you. You  
21 want preventive for stormwater management and  
22 everything. We have regulations for stormwater  
23 management and this is part of it, so --

24 CHAIRMAN EWASUTYN: Okay. Bryant,  
25 could you give us the variances that we need Mike

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Donnelly to prepare a letter referring this to the Zoning Board of Appeals, and can you, for the record, give us what those variances would be?

MR. COCKS: Yes. The first is for signage on site, where 59 square feet of signage is proposed and 25 square feet is allowed.

The second is Section 185-15 B, accessory structures. No such buildings shall project closer to the front of the street than the front of the main building.

The third is the total floor area of the storage building is to remain 50 percent of the principal building. The principal building being 17,300 square feet and the storage building being 12,000 square feet.

CHAIRMAN EWASUTYN: Any questions or comments from Board Members as far as the three variances that we'll refer to the Zoning Board of Appeals for the application of Peterbilt?

MR. DONNELLY: John, the applicant also asked for relief from the requirement that all the parking spaces be striped.

CHAIRMAN EWASUTYN: You're still --

MR. BROWN: Yes.

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CHAIRMAN EWASUTYN: That will be the --

MR. BROWN: Actually, what I want to do now, in other words, is eliminate these 12 spaces to bring that back to, you know, comply more with the guidelines. We would have 22 spaces provided whereas 32 are required. So we'll need a variance for 10 spaces.

MR. DONNELLY: So the number of spaces as well.

MR. BROWN: Correct.

MR. HINES: There may be an ability to look at some employee parking spaces elsewhere on the site so you can account for some of those there.

MR. BROWN: Okay.

CHAIRMAN EWASUTYN: So there are four variances then that will be referred to the Zoning Board of Appeals, Michael?

MR. DONNELLY: Yes. That's one -- yes, I believe that's four.

MR. BROWN: That's what I have, four.

CHAIRMAN EWASUTYN: Additional questions or comments from the Board?

MR. GALLI: No additional.

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MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: I'll make a motion to refer the Peterbilt Truck General to the Zoning Board of Appeals for the four variances presented by Bryant Cocks, our Planning Consultant.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.



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MR. DONNELLY: John, with the Board's permission I'll include a recommendation to the Zoning Board that they handle review of those variances on an uncoordinated review basis under SEQRA because you are not yet the lead agency and you haven't issued a declaration of significance.

CHAIRMAN EWASUTYN: Thank you, Michael.

MR. BROWN: Do you want to do the County referral at this point?

CHAIRMAN EWASUTYN: I think we have to give a little more detail in the site plan before we go to the Orange County Planning Department, before we move for conceptual approval.

MR. BROWN: Thank you very much.

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

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DATED: December 15, 2011

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

----- X  
In the Matter of

THE MARKETPLACE AT NEWBURGH  
(2004-54)

Route 300 & Route 52  
Multiple section, block and lot numbers  
IB/R-3 Zone

----- X

AMENDED SITE PLAN

Date: November 17, 2011  
Time: 8:33 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN BAINLARDI

----- X

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

1  
2 MR. PROFACI: The final item on this  
3 evening's agenda is The Marketplace at Newburgh,  
4 project number 2004-54. It's an amended site plan  
5 located at Route 300 and Route 52. It has  
6 multiple section, block and lot numbers, located  
7 in the IB Zone and a small portion of the R-3  
8 Zone, being represented by John Bainlardi.

9 MR. BAINLARDI: Good evening. I'm John  
10 Bainlardi, the Development Manager for Wilder,  
11 Balter Partners. This evening Bob Wilder is here  
12 with us, and I'll be making the presentation.

13 As part of the submission, you have  
14 before you a site plan drawing set consisting of  
15 nine documents -- nine site plan sheets and a  
16 landscape drawing. The landscape drawing shows  
17 the entire site as is presented here on the  
18 board. In addition, you have three 11 by 17  
19 sheets, figures 1 through 3. Figure 1 is a phase  
20 1 area of construction completion requirements  
21 prior to issuance of a certificate of occupancy.  
22 Figures 2 and 3 are the sewer and culvert plans.  
23 Also in your package is a memorandum issued by  
24 the project's traffic consultant, John Collins  
25 Engineers, and I'll touch on that as we go

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through the presentation.

The matter before you this evening is a third amended site plan application for The Marketplace. As you may recall, the project was originally approved back in 2008. There was a first amendment and a second amendment approved, and this is the third amendment.

Tonight we're trying to essentially achieve four goals, and I'll list those four goals for you. The first goal is the deferral of the third access drive for the project. As you may recall, the project was approved with three access drives, the main access drive at Route 300, a secondary access drive at Meadow Avenue and Route 52 where there's a round-about proposed and approved, and then a third access drive which exits out at Route 52 at Fifth Avenue. The goal here is to reduce the initial infrastructure costs for the project to help achieve us to get the project moving forward and under construction with an initial phase of approximately 400,000 square feet -- not to exceed 400,000 square feet.

The phasing is essentially the building 2, B-2, B-1, building A and the lifestyle center

1  
2 and the access roads and the other infrastructure  
3 that service the project.

4           The second goal was a site redesign in  
5 the village center portion with respect to the  
6 access that's servicing that portion of the  
7 project. The original approval had an ingress  
8 into the village center, a restricted ingress  
9 only, no ability to exit the center from that  
10 location. What we've done is we redesigned that  
11 entrance to provide for two-way access. We're  
12 proposing to signalize that intersection to  
13 control the traffic. The purpose for this  
14 revision is to provide the needs of the tenants,  
15 primarily the convenience type of tenants that  
16 are interested in occupying the front of the  
17 project, tenants such as pharmacies, banks where  
18 the customers and clients typically want to be  
19 able to get into the site and back out more  
20 conveniently and quickly.

21           The traffic memorandum, which was in  
22 your package and was drafted by our traffic  
23 engineer, addresses both of these two issues,  
24 both the deferral of the third access drive until  
25 we achieve the 400,000 square feet and this

1 traffic redesign here. I'll wait to get into  
2 that until your traffic engineer has had an  
3 opportunity to make his comments because he's  
4 received that memo and I believe he's prepared  
5 one for the benefit.  
6

7 The third goal is to lower the village  
8 center portion of the project, the grading, by  
9 approximately 21 inches on average. The purpose  
10 for this was again to try to reduce the amount of  
11 fill and cuts that would be necessary to grade to  
12 the previously approved level. By doing this  
13 we're able to reduce the amount of fill by  
14 approximately 40,000 -- 46,000 cubic yards.  
15 Again, this is in an effort to reduce initial  
16 infrastructure costs.

17 The last change to the plan is we've  
18 included a prototypical pharmacy building near  
19 the Route 300 entrance, it's approximately a  
20 13,000 square foot building, it has a  
21 drive-through and there are several -- two,  
22 actually, larger pharmacy chains we're talking to  
23 about occupying that building.

24 With respect to the deferral of the  
25 third access drive, there are some improvements

1  
2 that we will need to make to support the  
3 infrastructure for the project, specifically the  
4 sewer line which was approved and runs in this  
5 direction, gravity down the hill, across  
6 Quassaick Creek and connects with the existing  
7 Town main that's located on the other side of  
8 Quassaick Creek.

9           The proposal would be that in lieu of  
10 constructing this entire roadway, we would  
11 construct a twelve-foot wide temporary access  
12 road, gravel drive, down to the Quassaick Creek.  
13 We would construct a portion of the culvert,  
14 approximately a 40-foot section of the culvert,  
15 the original approval was for about 125 foot  
16 culvert section, to allow us to get the sewer  
17 main across the creek and to make the connection.  
18 We have shown the profiles and the plans in your  
19 package which I'm sure will be addressed by Mr.  
20 Hines.

21           On the plans we have -- on the cover  
22 sheet of the plans we have construction  
23 completion requirements, and I just wanted to  
24 note that it's our commitment to comply with all  
25 of those construction completion requirements



1  
2 that were originally approved in the second  
3 amended site plan, including the -- including  
4 with respect to phase 2. Any disturbance in that  
5 area would be graded down to naturalistic  
6 landscaped areas which would be seeded and  
7 stabilized.

8           And we have an erosion and sediment  
9 control bond in place, it's about \$862,000.  
10 We're not proposing a reduction in the amount of  
11 that. We've continued to renew that bond each  
12 year and it's in place with the Town, as well as  
13 the landscape bond which is approximately  
14 \$780,000.

15           As you may recall, the Findings have  
16 been adopted by your Board in the past. We've  
17 reviewed those Findings and we believe that the  
18 proposals and the modifications to the site plan  
19 have been studied in the previous Environmental  
20 Impact Statements and have been reflected in the  
21 Findings, and that the proposals that we're  
22 making adhere to those Findings.

23           That's all I have at this time. If  
24 there are any questions for us, we'll be happy to  
25 answer them.

1  
2 CHAIRMAN EWASUTYN: At this point I  
3 would like to turn to Jerry Canfield, Code  
4 Compliance. Any questions or comments?

5 MR. CANFIELD: Just, John, on the plans  
6 that were submitted, on the cover sheet the notes  
7 regarding the construction sequence, they  
8 reference I-684 which it's I-84. That's probably  
9 just a typo.

10 MR. BAINLARDI: Yes.

11 MR. CANFIELD: At the work session we  
12 had discussed briefly, and I've expressed some  
13 concern, although I have no issues with the  
14 overall construction sequence comments in that  
15 section of the plan, but think we should give  
16 some thought to -- as it is, phase 1, when it's  
17 completed, I'm concerned on what triggers issuing  
18 the actual certificate of occupancies. In phase  
19 1 there is 13 to 16 buildings to be constructed.  
20 When you deal with corporate America, which these  
21 tenants will be, once a building is constructed  
22 they want to get in. So is it all or none?  
23 That's the appearance that it is right now, all  
24 of phase 1 needs to be built. I think we need to  
25 look at that and perhaps, for the benefit of my

1  
2 department solely, how are we going to handle  
3 this and controlling this? When do we issue C of  
4 Os? Does the whole thing need to be complete?  
5 That's real simple. I think we need to look at  
6 the real world. In all actuality is that what's  
7 going to happen?

8 MR. BAINLARDI: That's not our  
9 intention. What I think we attempted to do in  
10 the notes was to indicate that a C of O for any  
11 particular building could not be issued until:  
12 One, all of the infrastructure that's necessary  
13 as far as stormwater, water lines, utility lines,  
14 sewer have been in fact completed, safe and  
15 completed access to that particular building is  
16 in place, and all of the necessary landscaping  
17 and parking and lighting to service that  
18 particular building is in place. And then I  
19 would expect that your -- that from a safety  
20 standpoint, that you would want to make sure that  
21 all those items are actually completed and  
22 placed, and that for any customers who are coming  
23 to and from that particular building, that they  
24 have a safe means to get in and out of the  
25 property. That's our expectation. I think that

1  
2 we've accomplished it in the notes because that's  
3 what we attempted to. If you think otherwise,  
4 I'll be happy to work with you.

5 MR. DONNELLY: So within project phase  
6 1 we have the same type of construction phasing  
7 we had when there were no phases in the project.  
8 In other words, there are certain lists of things  
9 that need to be completed before a CO can be  
10 issued for any building in phase 1. Just like  
11 before we said that work needs to be completed  
12 before any CO could be issued for any building in  
13 the entire project.

14 MR. BAINLARDI: Correct. I think that  
15 this issue came up in either the first amended  
16 site plan or the second amended site plan where I  
17 think we all came to the realization that while  
18 it was kind of understood that, you know,  
19 buildings are going to be constructed and tenants  
20 are going to want to open up and move in, that we  
21 did not have a specific checklist, so to speak,  
22 that you could refer to and say okay, these items  
23 have all been completed and I'm now free and able  
24 to issue the certificate of occupancy. In either  
25 the first or the second amended site plan we

1 initially created the list. We've adjusted that  
2 list now to add some more items to address what  
3 happens with this phase if and when we get to a  
4 point in time when we're ready to open and  
5 tenancies are not in place to construct. And what  
6 we also did was on the phase 1 construction  
7 completion requirements, the figure 1, we tried  
8 to make specific -- tried to point out there  
9 specifically those items that would need to be  
10 completed as a requirement for a C of O for any  
11 building in the first phase. That was really  
12 primarily infrastructure, stormwater, utilities,  
13 driveways, the landscaping that's along the  
14 driveways, and I think there's -- with respect to  
15 landscaping for instance, there's a note that  
16 says landscaping will be completed unless it's at  
17 a period of time during the year where  
18 landscaping can't be completed, you have to bond,  
19 it will be done at the first opportunity in the  
20 spring. So again, if you have -- if you see  
21 anything in there that you're not comfortable  
22 with or you'd like for to us adjust, I'd be happy  
23 to --  
24

25 MR. CANFIELD: I think and I understand

1 what you had said, it makes perfect sense, but I  
2 would like to have the latitude to make that  
3 determination that we do -- if it is an unsafe  
4 condition, I'm certain that you don't want that,  
5 the developer does not want that, but to give the  
6 Town a little more latitude to make that  
7 determination. I think we're specifically  
8 talking about the village center. The big boxes,  
9 they can be handled. We can use a shell permit  
10 and then individual fit outs for each tenant.  
11 That's not the issue. I'm concerned more about  
12 the village center because of the number of  
13 buildings there, and there could be six or seven  
14 in this building and two or three in that  
15 building.  
16

17 MR. WILDER: Bob Wilder of Wilder,  
18 Balter.

19 Jerry, you must have run into this  
20 situation before. Like let's say when you did a  
21 smaller -- Kohl's and was it Petco down there,  
22 didn't one follow -- the Petco followed. So  
23 Kohl's wanted to get open before I'm sure Petco.  
24 Or the one down where Michael's is and the  
25 Friday's came in later, and Pier One. So do you

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have a list that you've already done for those?  
While our project may be bigger, the concept is  
the same.

MR. CANFIELD: I can tell you, Bob, the  
Lowe's site, this Board did an excellent job as  
far as phasing. We had very defined start and  
finish lines on the phase. Again, it wasn't the  
amount of building. You're a hundred percent  
right, it's much larger. That's the part that  
concerns me. I'm just concerned. I would like  
-- I would feel more comfortable with language to  
give the building department that latitude.

MR. WILDER: I guess did you have  
language before?

CHAIRMAN EWASUTYN: May I make a  
suggestion? I think we could go back and forth  
to what is, what did you do and sort of create  
that mechanism now, and I don't think this is the  
forum to create that mechanism now. If I might  
make a suggestion that you contact Jerry Canfield  
and arrange to have a meeting with him where you  
could then sit down for the half hour or hour  
that it takes to begin discussing this in a work  
session.

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MR. WILDER: Okay.

MR. DONNELLY: I think that's a good idea. It really has to be a standard. Safety, whatever it is. I'm sure you can come up with language that would work.

MR. BAINLARDI: No problem.

CHAIRMAN EWASUTYN: Jerry could have whoever he feels could also help him with input at that meeting. Just cc the Planning Board on the date when you do have that meeting for the record.

MR. BAINLARDI: Yes, sir.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines, Drainage Consultant?

MR. HINES: Our first comment just explains what the applicant is proposing based upon the new construction, first construction phase, identifying the buildings and the improvements proposed.

The second comment identifies the figure 1, the 12 October infrastructure proposal that identified each of the various utilities that need to be installed prior to the issuance of a CO that the 11 by 17 drawing will control,



1  
2 the infrastructure improvements that are  
3 required. Again, they are quite extensive. It's  
4 everything on the north and west side of the  
5 road, the through road. That's a good guide.

6 Our next comment has to do with what  
7 was explained for the gravity sewer line which  
8 will extend from the project site, across  
9 Quassaick Creek to the existing Crossroads sewer  
10 district. A 40-foot section of the originally  
11 approved box culvert will be installed. The  
12 original proposal was for 125 feet. The sewer  
13 line has been modified to be installed at revised  
14 line and grade which will then allow it to remain  
15 should the additional box culvert be extended,  
16 and that Route 52/Fifth Avenue roadway be  
17 extended and constructed it will -- the way it is  
18 currently designed, it will now be in the  
19 embankment of that roadway rather than down the  
20 center line that it was originally. The grades  
21 work, the fill section works, and the 40-foot  
22 culvert section could just be added on to in the  
23 future when that roadway is constructed. So  
24 we're okay with that proposal and it works fine.

25 Our last comment has to do with just

1  
2 that, that as long as the improvements on figure  
3 1 and the sanitary sewer are identified, we take  
4 no exception to the revised plan.

5 CHAIRMAN EWASUTYN: Bryant Cocks,  
6 Planning Consultant?

7 MR. COCKS: I have no comments at this  
8 time.

9 CHAIRMAN EWASUTYN: Ken Wersted,  
10 Traffic Consultant?

11 MR. WERSTED: We had a couple of  
12 comments, basically broken into the two different  
13 segments of the proposal, the first being the  
14 entry A access to the lifestyle center and the  
15 second part being the consolidation of the  
16 driveways to two and the lowering of the  
17 development threshold.

18 The first matter, we didn't have any  
19 issue with the location of the intersection or  
20 the design of it. We had a couple of minor  
21 comments on some of the signing that would be at  
22 that intersection. Overall, the proposed signal  
23 internal to the site at entry A would also have  
24 communication with the signal on Route 300 to  
25 alleviate the issue of traffic coming into the

1 site from Route 300 and then hitting a stop light  
2 before it proceeds. So that matter, those two  
3 signals would be coordinated with each other to  
4 maintain traffic flowing through that area.  
5

6 On the second issue, the elimination of  
7 the third access out to Route 52 at Fifth Avenue  
8 and a smaller development threshold as kind of an  
9 interim step basically consolidates the traffic  
10 to two access points, that being at Route 300  
11 opposite the Newburgh Mall and also coming out to  
12 Meadow Hill Avenue and Powder Mill Road. All the  
13 site traffic from there has to use one of those  
14 two entrances, which obviously concentrates the  
15 amount of traffic in those areas. However,  
16 that's offset by lowering the amount of  
17 development that occurs from 850,000 square feet  
18 down to 400,000 square feet to those two access  
19 points. With that, the applicant provided a  
20 traffic impact study that demonstrated that the  
21 study area intersections would all operate at  
22 comparable or better levels of service than the  
23 three access point, 850,000 square foot, full-  
24 build proposal. The only exception there is that  
25 the intersection of Route 52 and Fifth Avenue

1 where the third access point would have come out  
2 to, without that driveway there the improvements  
3 that were proposed at that intersection also  
4 wouldn't be constructed. Therefore you do have  
5 some traffic, albeit minor, of the two driveways  
6 traveling up past that intersection to the  
7 secondary access point. So you do have traffic  
8 going past that intersection, increasing the  
9 delays for vehicles on Fifth Avenue but no  
10 improvement being proposed at this time.

12 So our comment to the applicant would  
13 be to take a look at that intersection and see if  
14 there are any improvements that may be necessary  
15 in the interim until that third access is  
16 constructed, which then the full buildout of  
17 those improvements would take place. That could  
18 -- that improvement could include just a traffic  
19 signal that would be installed sometime in the  
20 future when it would actually be needed. It  
21 could be designed such that it would accommodate  
22 the third driveway coming out there in the  
23 future. If they can identify what that  
24 improvement might be, it could also provide some  
25 timeline as to, you know, where that might occur.

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2 CHAIRMAN EWASUTYN: John Collins, do  
3 you have any input on how that could be monitored  
4 to a point where you know if there's any  
5 mitigation measures that have to be put into  
6 place?

7 MR. COLLINS: What we would suggest is  
8 we're dealing with an interim development of  
9 400,000, and I would suggest to the Board we do a  
10 monitoring program at 200,000 of this  
11 development, 200,000 square feet, see what the  
12 conditions are out there at Fifth Avenue, and  
13 then, if the conditions are okay, then we would  
14 continue on with the next 400,000 and do another  
15 monitoring program.

16 I just point out to the Board the fact  
17 that we have the permit from DOT for all three  
18 driveways. The signal is part of that permit on  
19 Fifth Avenue. If need be, that signal could be  
20 installed without the other improvements in order  
21 to ameliorate any impact it would have to Fifth  
22 Avenue. We could give that information to the  
23 Board and the Board would, through it's  
24 consultants and their own action, would determine  
25 whether or not a signal would have to be

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installed at either the 200,000 square foot mark or the 400,000 square foot mark.

CHAIRMAN EWASUTYN: Do you find that as an acceptable recommendation for the Board?

MR. WERSTED: Yeah. I think for updating the Findings Statement and the amended proposal. If we identify what that improvement is, then we can use that threshold to say if at 200,000 square feet the improvement is required, then this is the improvement that would be installed.

CHAIRMAN EWASUTYN: Comments from the Board Members at this point?

MR. GALLI: No additional.

MR. MENNERICH: It sounds all right to me.

MR. PROFACI: No additional.

MR. FOGARTY: I have no additional.

MR. WARD: Ken, you were referring to signage . Was that the no left-turn signs?

MR. WERSTED: Yeah. At the internal intersection of road A and entry A, which is where the lifestyle center is, there is a right-turn ramp, so to speak, that comes into the site.

1  
2 As you're exiting the site there are left-turn  
3 arrows to turn onto road A. Just so that a  
4 driver isn't mistakenly going into the oncoming  
5 traffic, the incoming lane, do not enter signs  
6 are installed there. That will help prevent  
7 that.

8 MR. WARD: Thank you.

9 CHAIRMAN EWASUTYN: At this point I  
10 would like to turn to Mike Donnelly.

11 MR. DONNELLY: We've heard two things  
12 that we discussed tonight that I think will  
13 require an amendment to the Findings. I don't  
14 think in either case that further study is  
15 warranted because both the possibility of a two  
16 sided or a two access mall, which I believe in  
17 the EIS up to 450,000 square feet was studied in  
18 the EIS.

19 What I think we need to cover in the  
20 Findings, though, is, number one, a requirement  
21 that -- put it this way: The Findings dictate  
22 that all three entrances need to be made before  
23 the first CO could be issued for any store in the  
24 entire mall. If we're going to phase 1 at two  
25 entrances, we need to define in the Findings that

1  
2 up to 400,000 square feet can be supported by  
3 these two entrances, and that is a discrete and  
4 new Finding.

5           Second, what I just heard from Ken and  
6 John, and that is in order to ensure that in  
7 actuality and not on paper there isn't some  
8 degradation to an unsatisfactory level in the  
9 Fifth Avenue intersection, we're going to have a  
10 monitoring program at 200,000 square feet of  
11 buildout and again at the full 400,000 square  
12 feet of buildout to see whether or not some  
13 interim traffic improvement in that area is  
14 warranted to maintain reasonable levels of  
15 service until the full mall is built out.

16           Beyond that, we may wish, I don't know,  
17 it depends on where it goes with your discussions  
18 with Jerry, to include a finding that addresses  
19 the issue of how certificates of occupancy will  
20 be issued for buildings within the phase on  
21 whatever standard and cautions are established.  
22 If there are other findings that you see in the  
23 document that are inconsistent with what you're  
24 proposing, I think we should amend those as well.  
25 Obviously it's our document but I would



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appreciate it if you would go over the existing finding and take a stab at including these as we've done with all the SEQRA documents in the past, and then the Board will take that up.

MR. BAINLARDI: I'd be happy to do that.

CHAIRMAN EWASUTYN: Thank you.

MR. BAINLARDI: John, I think you've already given us permission, but do we have permission to consult with your consultants between now and then?

CHAIRMAN EWASUTYN: Yes. Have a happy Thanksgiving.

I'll move for a motion from the Board to close the Planning Board meeting of the 17th of November.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

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MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 9:01 p.m.)

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

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

\_\_\_\_\_

DATED: December 15, 2011