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

----- X

In the Matter of

53 MAPLE AVENUE, LLC  
(2010-18)

Orchard Drive  
Section 1; Block 1; Lot 138.1  
AR Zone

----- X

PUBLIC HEARING  
TWO-LOT SUBDIVISION & SITE PLAN

Date: November 18, 2010  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

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53 MAPLE AVENUE, LLC

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MR. PROFACI: Good evening. Welcome to the Town of Newburgh Planning Board meeting of November 18, 2010.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh, Code Compliance Supervisor.

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

MR. COCKS: Bryant Cocks, Planning  
Consultant.

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

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

MR. PROFACI: Thank you.

At this time I'll turn the meeting over  
to John Ward.

MR. WARD: Please stand to say the  
Pledge.

(Pledge of Allegiance.)

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

MR. PROFACI: The first item on this  
evening's agenda is a public hearing. It's for  
53 Maple Avenue, LLC, Orchard Drive, Section 1;  
Block 1; Lot 138.1, located in the AR Zone. It's  
a two lot-subdivision and site plan being  
represented by Lawrence Marshall.

Ken Mennerich will read the notice of  
hearing.

1  
2 MR. MENNERICH: "Notice of hearing,  
3 Town of Newburgh Planning Board. Please take  
4 notice that the Planning Board of the Town of  
5 Newburgh, Orange County, New York will hold a  
6 public hearing pursuant to Section 276 of the  
7 Town Law on the application of 53 Maple Avenue,  
8 LLC for a two-lot subdivision on premises Orchard  
9 Drive in the Town of Newburgh, designated on Town  
10 tax map as Section 1; Block 1; Lot 138. Said  
11 hearing will be held on the 18th of November 2010  
12 at the Town Hall Meeting Room, 1496 Route 300,  
13 Newburgh, New York at 7 p.m. at which time all  
14 interest persons will be given an opportunity to  
15 be heard. By order of the Town of Newburgh  
16 Planning Board. John P. Ewasutyn, Chairman,  
17 Planning Board, Town of Newburgh. Dated October  
18 26, 2010."

19 MR. GALLI: Notice of hearing was  
20 published in The Mid-Hudson Times and The  
21 Sentinel. Eighteen notices were sent out,  
22 thirteen were returned signed. The notices and  
23 the papers were all in order.

24 CHAIRMAN EWASUTYN: Okay. Mike  
25 Donnelly, the Planning Board Attorney, will speak

1  
2 to those who are here in the audience about the  
3 meaning and the purpose of a public hearing.

4 MR. DONNELLY: Two of the matters on  
5 this evening's agenda are on for a public  
6 hearing. Both of them are subdivision  
7 applications. The purpose of the public hearing  
8 is for the members of the public, before the  
9 Planning Board takes action on a proposal, to  
10 bring to the attention of the Planning Board  
11 issues or concerns that you may have so that the  
12 Planning Board can incorporate them into any  
13 action it takes. Although most of these  
14 applications have been before the Planning Board  
15 for some number of months and the Planning Board  
16 has had the advice of its consultants, they'd  
17 like to hear from the public before they make a  
18 final decision. After the applicant makes a  
19 presentation, the Chairman will ask those members  
20 of the public who wish to speak to raise your  
21 hand so that you may be recognized. When you do,  
22 we'd ask you to step forward so we can hear you.  
23 Give us your name, spell it if you could for the  
24 Stenographer so we get it down correctly. Tell  
25 us where you live in relation to the project so

1  
2 we have some idea of the perspective you bring to  
3 bear. If you would, address your comments to the  
4 Planning Board. If you have questions, the  
5 Chairman will either ask the applicant's  
6 representative or one of the consultants to  
7 answer that question, if it can be easily  
8 answered. Thank you.

9 CHAIRMAN EWASUTYN: Mr. Marshall, would  
10 you give your presentation, please.

11 MR. MARSHALL: Yes. This is a proposed  
12 two-lot subdivision on the westerly side of  
13 Orchard Drive along the boundary line between the  
14 Town of Newburgh and the Town of Plattekill.

15 This is a resubdivision of lots 6 and 7  
16 of a filed map that was filed in the county  
17 clerk's office in June of 2010.

18 We are not proposing any additional  
19 building lots here. What is being proposed is a  
20 reallocation of land, basically transferring land  
21 from lot 7 to lot 6. Lot 6 will become 2.362  
22 acres and lot 7 will become 5.370 acres.

23 In addition to that, lot 6 is being  
24 proposed to contain a two-family dwelling which  
25 has been designed with the necessary sewage

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disposal system.

Both lots will be served by individual wells and septic systems.

CHAIRMAN EWASUTYN: Thank you.

Is there anyone here this evening from the public who has any questions or comments on the presentation that Mr. Marshall has just made?

(No response.)

CHAIRMAN EWASUTYN: There's no one here this evening from the public who has any questions or comments. At this point we'll turn to our consultants for their recommendation.

Pat Hines, Drainage Consultant?

MR. HINES: The applicant has addressed all of our previous comments. We reviewed the water and sewer systems that are proposed and found them acceptable. We have no outstanding issues.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I have nothing further on the project.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

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MR. CANFIELD: We have nothing outstanding.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: I don't have anything on this.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. MENNERICH: No questions.

MR. PROFACI: Nothing additional.

MR. FOGARTY: I have no comments.

MR. WARD: No comments.

CHAIRMAN EWASUTYN: Then I'll move for a motion to close the public hearing for the two-lot subdivision and site plan for 53 Maple Avenue.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

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

(No response.)

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



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MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself aye, yes. The motion is carried.

At this time we'll turn to Planning Board Attorney, Mike Donnelly, to give us conditions of approval for the site plan and subdivision.

MR. DONNELLY: The resolution will actually track site plan, subdivision and will also reflect the ARB approval that you granted on September 16, 2010.

My first question of the applicant is this: Though you paid fees in lieu of parkland for the lots, you are now creating one additional dwelling unit, so there will be an additional \$2,000 fee due. Do you wish to have that deferred until the time of building permit application? If you do, you'll need to add the map note, deliver the certification, and then that can be accomplished. I will leave the

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language in the resolution if you wish and you can decide later.

MR. HINES: There's no new lots, there's only a lot line.

MR. DONNELLY: There's a new dwelling unit.

MR. MARSHALL: We don't wish to defer. We'll pay it.

MR. DONNELLY: We won't worry about that then. I'll reflect what the Health Department has told us, and that is that they do not require that they assert realty subdivision approval jurisdiction over this matter. I'll reflect the Architectural Review Board approval earlier granted. Because this is a site plan, we'll include the usual conditions that prohibit the erection of any structures or improvements on the lot that are not shown on the site plan. I will include the requirement of the payment of the additional \$2,000 fee before map filing.

CHAIRMAN EWASUTYN: Any questions from Board Members as far as the conditions for final approval for the site plan and subdivision for 53 Maple Avenue presented by Attorney Mike Donnelly?

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MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: NO.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Then we'll move for an approval for that action for the site plan and two-lot subdivision for 53 Maple Avenue.

MR. WARD: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

The motion was carried.

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MR. MARSHALL: Thank you very much.  
(Time noted: 7:09 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 16, 2010

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

----- X

In the Matter of

PINNACLE SUBDIVISION  
(2003-62)

River Road  
Section 43; Block 5; Lot 17.2  
R-1 Zone

----- X

PUBLIC HEARING  
AMENDED TWENTY-ONE LOT SUBDIVISION

Date: November 18, 2010  
Time: 7:09 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- X

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

1  
2 MR. PROFACI: The next item on  
3 tonight's agenda is the Pinnacle Subdivision.  
4 It's also a public hearing to amend a 21-lot  
5 subdivision. It's located on River Road,  
6 Section 43; Block 5; Lot 17.2 in the R-1  
7 Zone. It's represented by Greg Shaw.

8 MR. MENNERICH: "Notice of hearing,  
9 Town of Newburgh Planning Board. Please take  
10 notice that the Planning Board of the Town of  
11 Newburgh, Orange County, New York will hold a  
12 public hearing pursuant to Section 276 of the  
13 Town Law on the application of Pinnacle  
14 Subdivision for a two-lot subdivision on premises  
15 River Road, Section 43; Block 5; Lot 17.2. Said  
16 hearing will be held on the 18th day of November  
17 2010 at the Town Hall Meeting Room, 1496 Route  
18 300, Newburgh, New York at 7 p.m. at which time  
19 all interested persons will be given an  
20 opportunity to be heard. By order of the Town of  
21 Newburgh Planning Board. John P. Ewasutyn,  
22 Chairman, Planning Board, Town of Newburgh.  
23 Dated October 26, 2010."

24 MR. GALLI: The notice of hearing was  
25 published in The Mid-Hudson Times and The

1 Sentinel. Seven notices were sent out, four were  
2 returned. The notice of hearing and publication  
3 are in order.  
4

5 CHAIRMAN EWASUTYN: Okay. Mr. Shaw,  
6 would you make your presentation.

7 MR. SHAW: Thank you. In 2007 this  
8 Planning Board approved the Pinnacle Subdivision.  
9 It was located on River Road and consisted of 21  
10 lots in the R-1 Zone, each having a minimum lot  
11 area of 40,000 square feet. The majority of the  
12 lots were internal to the project, that being  
13 that they were accessed from a new road system.  
14 I believe there were four lots that were being  
15 accessed directly from River Road, and two of the  
16 lots are what's before the Board tonight,  
17 specifically newly created lots 19 and 20.

18 There was an existing entrance into the  
19 former property, which was the Oblates, and that  
20 had stonewalls on each side. The plans approved  
21 by this Board proposed utilization of that  
22 existing driveway as a common driveway to service  
23 both new lot 19 and new lot 20. That's the way  
24 it was filed in the county clerk's office and  
25 that's the way it presently exists today.

1  
2 On lot 19 a house has been built along  
3 with improvements, such as a driveway, water  
4 service and a sewage disposal system. Presently  
5 lot 20 is still vacant. There's been no  
6 construction.

7 My client, who was the applicant for  
8 the subdivision, presently owns both lots. He  
9 wishes to sell lot number 19, and it has been on  
10 the market for some time. What he would like to  
11 do is extinguish the existing right-of-way over  
12 lot 19 for the benefit of 20 and create a new  
13 driveway for lot number 20 directly from River  
14 Road. That is the only proposed change to the  
15 approved subdivision map.

16 What we are also proposing is to create  
17 a buffer along the common lot lines between 19  
18 and 20 to provide each lot with a little bit of  
19 privacy.

20 So in order to extinguish this  
21 right-of-way we need to have a new subdivision  
22 approval for just these two lots. There are no  
23 changes to the sewage disposal system, the wells.  
24 Again, the only changes are the extinguishing of  
25 the right-of-way, the elimination of the common



1  
2 drive and the creation of a new buffer area to  
3 provide some screening between the lots.

4 Thank you.

5 CHAIRMAN EWASUTYN: Okay. At this  
6 point, as Mr. Donnelly said, and I notice the  
7 members of the audience haven't changed, the  
8 format for this public hearing is the same. Is  
9 there anyone here this evening that has any  
10 questions or comments for the amended 21-lot  
11 subdivision made by Greg Shaw for Pinnacle?

12 (No response.)

13 CHAIRMAN EWASUTYN: Then at this point  
14 I'll turn to our consultants.

15 Karen Arent, Landscape Architect?

16 MS. ARENT: The cost estimate for the  
17 -- I mean the landscape bond amount that's held  
18 for the entire project is more than sufficient to  
19 cover the landscape proposed on that plan, so  
20 there's no need for an additional landscape bond.

21 CHAIRMAN EWASUTYN: Ken Wersted,  
22 Traffic Consultant?

23 MR. WERSTED: No comments.

24 CHAIRMAN EWASUTYN: Bryant Cocks,  
25 Planning Consultant?

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MR. COCKS: Just a note that Darrell Benedict, the highway supervisor, would need to approve the new driveway location.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have no comments that haven't been addressed.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Just one item on Bryant's comment. Typically at the filing of a building permit the highway department has to issue a driveway cut. I don't know if it's something you want to require now or at the time of building permit. Typically it's done --

CHAIRMAN EWASUTYN: What would your recommendation be?

MR. CANFIELD: Leave it as is. At the time of building permit they'll need to look at it, and they sign off on it, so --

CHAIRMAN EWASUTYN: Have you had conversations with Darrell?

MR. SHAW: No, I have not.

CHAIRMAN EWASUTYN: Okay. Comments

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from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. MENNERICH: No questions.

MR. PROFACI: Nothing additional.

MR. FOGARTY: I have no comment.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Then I'd move for a motion from the Board to close the public hearing on the amended 21-lot subdivision for Pinnacle.

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: Myself yes. Motion carried.

1  
2 At this point I will turn to the  
3 Planning Board Attorney, Mike Donnelly, to give  
4 us conditions for approval for the amended 21-lot  
5 subdivision.

6 MR. DONNELLY: The first condition is  
7 that we will carry forth the original conditions  
8 of the original resolution. Secondly, although  
9 the permit for the curb cut should come at the  
10 time of building permit, we usually want to see  
11 approval by the highway superintendent of the  
12 location before we sign the map and file it so we  
13 don't run into another problem. So we will  
14 require approval of that location from the  
15 highway superintendent. The resolution will  
16 authorize you to record whatever instrument you  
17 deem appropriate to rescind and abandon the  
18 common driveway easement and maintenance  
19 agreement that had earlier been recorded. The  
20 resolution will reflect there is no new  
21 landscaping fee due, nor is there any new fee in  
22 lieu of parkland due at this time.

23 CHAIRMAN EWASUTYN: Having heard the  
24 conditions of approval for the amended 21-lot  
25 subdivision for Pinnacle presented by Attorney

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Mike Donnelly, I'll move for that motion.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

(No response.)

CHAIRMAN EWASUTYN: We'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.

The motion is carried for approval.

MR. SHAW: Have a nice Thanksgiving.

(Time noted: 7:17 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 16, 2010

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

----- X  
In the Matter of

HOLIDAY INN ROUTE 17K  
(2004-21)

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

----- X

SITE PLAN, TWO-LOT  
SUBDIVISION & ARCHITECTURAL REVIEW BOARD

Date: November 18, 2010  
Time: 7:17 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVES: ADAM RODD, ANDREW  
FEATHERSTON & ANTHONY COPPOLA

----- X

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

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

8 MR. RODD: Good evening. Adam Rodd of  
9 the law firm Drake, Loeb for the applicant. With  
10 me is Andrew Featherston, the engineer, and  
11 Anthony Coppola, the Architect.

12 Obviously we've been working with you  
13 towards the development of the subdivision and  
14 site plan, and we're happy to answer any  
15 questions that anyone may have.

16 CHAIRMAN EWASUTYN: Thank you.

17 Mr. Featherston, your presentation  
18 please.

19 MR. FEATHERSTON: Sure. Mr. Chairman,  
20 this is the parcel for the Holiday Inn. It's a  
21 commercial subdivision. This is presently the  
22 Knights Inn driveway off of 17K. It's also a  
23 driveway that leads down to Route 300 existing.  
24 This is the mostly vacant portion of that lot.  
25 We're proposing a subdivision. The total area of



1  
2 the parcel is approximately 12 acres. We're  
3 proposing to subdivide off a piece for a 140-room  
4 Holiday Inn. We've prepared a full set of  
5 drawings, engineered drawings for the layout,  
6 utilities, stormwater.

7 One of the comments from our last  
8 appearance two weeks ago was we had some  
9 typographical things that I needed to clear up on  
10 the plans that weren't consistent. I did that.  
11 I met with Mr. Hines, we went through everything  
12 and he's issued a letter to the Board.

13 Any questions I could possibly answer  
14 for the Board, I'd be more than happy to do so.

15 CHAIRMAN EWASUTYN: Thank you. At this  
16 point I'll turn to Pat Hines, our Drainage  
17 Consultant.

18 MR. HINES: As Mr. Featherston said, we  
19 did meet after the last meeting. As I explained  
20 at work session, the drainage report was revised  
21 according to the conversations we had at the  
22 meeting, and the infiltration areas are going to  
23 be revised on the next set of plans. They  
24 haven't been revised yet, but those that are  
25 functioning as infiltration basins will be

1 identified as -- those that are functioning as  
2 underground detention systems will be identified.  
3 But the plan -- the report has been revised and  
4 we found that to be acceptable. That was what  
5 was holding up a negative -- I believe that was  
6 the only issue holding up a negative declaration  
7 for the Board to move forward to schedule a  
8 public hearing. We take no exception to the  
9 Board issuing that neg dec.  
10

11 And then the DOT comments, Ken Wersted  
12 will weigh in on that. We have that now.

13 A City of Newburgh flow acceptance  
14 letter will be required prior to approval.

15 That's all we have outstanding.

16 CHAIRMAN EWASUTYN: Bryant Cocks,  
17 Planning Consultant?

18 MR. COCKS: I have nothing further. The  
19 applicant addressed all of our previous comments.

20 CHAIRMAN EWASUTYN: Karen Arent,  
21 Landscape Architect?

22 MS. ARENT: During the last meeting we  
23 discussed landscaping to be shown to unify the  
24 two pylon signs at both entrances to the site,  
25 Route 300 and 17K. That hasn't been submitted

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yet. I believe they're waiting for the public hearing before they make any other changes.

We also brought up the lighting, the fact that there's no lighting along the roadway coming in from Route 300. The Board discussed, during work session, the need for that since there most likely will be a lot of pedestrians along that striped walkway.

That's it for the site plan.

CHAIRMAN EWASUTYN: I think at our last meeting there was the consideration of whether there should be a raised concrete sidewalk with curbing and also what you were proposing there, sort of striping with reflectors.

MR. FEATHERSTON: Yes.

CHAIRMAN EWASUTYN: We discussed at our work session, and John Ward, Planning Board Member, had felt that it was reasonable what you were proposing but then raised an interesting question as far as the safety of people walking there in the evening without having any lighting.

John, do you want to speak further on that?

MR. WARD: Well, you're going to have a

1  
2 lot of people going down to the restaurants and  
3 traffic going through. If you're going to have  
4 the reflectors, you need something there for the  
5 walkway for the people to see, plus traffic.  
6 It's a dangerous thing. It's a dark area and  
7 it's a safety issue. So if you can propose  
8 something that way.

9 MR. FEATHERSTON: We could propose some  
10 illumination at that point. That's no problem.  
11 That intersection is not made for a pedestrian. I  
12 just have to mention it. I go through there a  
13 number of times a day. I live in Woodbury, I  
14 work in Newburgh, so I go through it a number of  
15 times a day. But when those lights change, they  
16 go instantly from crossway traffic to allowing  
17 the turn traffic, then the other direction, then  
18 the turn traffic. That cycle is so quick it  
19 doesn't even facilitate -- it doesn't even allow  
20 a pedestrian to get across. It's really a --

21 MR. GALLI: They walk up there all the  
22 time.

23 MR. FEATHERSTON: Yeah. It's tough.  
24 It's a tough spot.

25 MR. WARD: Even if they go to Denny's

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or anything like that on this site, you've got to make sure --

MR. FEATHERSTON: Yeah. I think the lighting is an improvement. Okay.

CHAIRMAN EWASUTYN: Thank you.

MS. ARENT: Can you show pedestrian scale fixtures, something really --

MR. FEATHERSTON: Some bollards or something?

MS. ARENT: That would be great. Thanks.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: I didn't have any specific new comments but did receive the November 8, 2010 letter from DOT noting a number of conditions that the applicant will have to meet and submit to the Board -- to DOT in order for them to commence their review.

Some of the items refer to a traffic signal warrant study. I don't know if that's applicable. I recommend that you touch base with them to go over the items to see exactly what's required. Obviously the lighting on 300 is

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already there.

MR. FEATHERSTON: What did you say the date was of that letter?

MR. WERSTED: It was dated November 8, 2010.

MR. FEATHERSTON: Really? Could you forward a copy of that?

MR. WERSTED: I'll be back in the office on Tuesday.

MR. FEATHERSTON: That's fine. That's fine. Thank you.

They don't know their own signal is there. Interesting.

CHAIRMAN EWASUTYN: You can have a copy. Here (handing).

MR. FEATHERSTON: Thank you.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: During the work session we had a discussion about the condition of the existing site, the access road. Can you tell us if that's been maintained properly?

MR. FEATHERSTON: Do you mean this one, Jerry?

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MR. CANFIELD: Yes.

MR. FEATHERSTON: We have a grading plan. That's actually going to be all redone, Jerry. We were going to do that to twenty-six foot total in width, less four foot for a striped walkway, left two eleven-foot travel lanes. We gave you the full twenty-six foot width, even though we don't need it, for the majority from a fire standpoint.

MR. CANFIELD: That's not so much my question, Andrew. It's the condition of it right now. The last conversation we had we were talking about the debris and the litter that was there, and some Board Members had some concern with respect to cleaning of that up.

MR. FEATHERSTON: This here?

MR. CANFIELD: Yes.

MR. FEATHERSTON: Okay.

MR. GALLI: The whole property all the way up around the corner, too.

MR. FEATHERSTON: Okay.

Are you aware of that?

UNIDENTIFIED SPEAKER: No. It's clean.

MR. GALLI: Clean?

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MR. FEATHERSTON: Okay. We'll address it.

CHAIRMAN EWASUTYN: Comments from Board Members this evening in reference to the site plan or subdivision. Frank Galli?

MR. GALLI: Just to elaborate on what Jerry said, at the end of the driveway all the way up, not the 300 side but all the way up on the other side, it was pretty messy at one time.

MR. FEATHERSTON: Okay.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: Pat, you probably covered this. It looks like I'll go over it again. I know there were soil tests that had failed. I was just wondering, how does that impact the stormwater plan?

MR. FEATHERSTON: The stormwater infiltration systems are required to percolate water in two hours, one inch of water in two hours. They did not do that. So our mathematical



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2 model said -- they don't perc at all, zero. We  
3 know that there's going to be some percolation.  
4 The water is going to go into the ground, albeit  
5 slowly. What we did is once we knew they were  
6 all zeros, or a series of these were zeroes,  
7 these three units were zero, we had to increase  
8 the size. We had to account for the volume that  
9 would have gone into the ground had they perc'd  
10 well by allowing more volume just under the  
11 pavement, or just under the surface of the  
12 ground.

13 MR. HINES: They're going to function  
14 as a detention pond underground. They'll have an  
15 outlet control. They'll fill up and drain down  
16 during storm events.

17 MR. FOGARTY: They will naturally drain  
18 down?

19 MR. HINES: There's an outlet control  
20 structure underground that will allow that to  
21 drain out based on the size of the orifice.

22 MR. FEATHERSTON: The water is  
23 directed. They're inundated. They flood all  
24 underground, and then there's a small release to  
25 let the water come out slowly over time.

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MR. FOGARTY: That water goes where?

MR. FEATHERSTON: That goes -- in this particular case it's going to go out the front into the existing drainage system on Route 17K. This is going to be tributary on this side to a rip-rap swale that was constructed and some new drainage that was constructed in accordance with when the Thruway did -- they widened that off ramp essentially. Down on this end there's a catch basin with a large -- a 36-inch storm drain down on DOT. So this side is going to go in this direction. It's all going to existing facilities.

MR. FOGARTY: Good. Thanks.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: You addressed my comments.  
Thank you.

MR. FEATHERSTON: Thank you.

CHAIRMAN EWASUTYN: At this point I'll move for a motion to declare a negative declaration for the site plan and two-lot subdivision for the Holiday Inn located on Route 17K.

MR. MENNERICH: So moved.

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MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

AJ, last time we couldn't, because of making a SEQRA determination, move for approval on ARB for the Holiday Inn. Do you have any materials or anything to show us?

MR. COPPOLA: I did bring the drawings again, and the rendering. It's the same as it was two weeks ago. The colored rendering went out for the Planning Board meeting two weeks ago.

So again, most of what we're doing here -- all of what we're doing here is in keeping

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with the Holiday Inn's corporate prototype. There is cultured stone at the base, a two-tone stucco efface system up above. It's pretty much as we've rendered it here.

It's a four-story building, 140 rooms, full service hotel.

We had submitted the ARB form. You should have that from two meetings ago.

CHAIRMAN EWASUTYN: Karen, do you have anything to add to this at this time?

MS. ARENT: Yes. We discussed during the last meeting you developing guidelines for the marquis type sign so they're uniform in appearance.

MR. COPPOLA: Yes.

MS. ARENT: Have you --

MR. COPPOLA: We haven't submitted anything but we're going -- because it was such a short time span, we didn't want to revise the drawings and resubmit. We're going to do all that now.

MS. ARENT: Okay.

CHAIRMAN EWASUTYN: Comments from Board Members as far as the granting of approval for

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the ARB for the Holiday Inn. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

Take your time.

MR. MENNERICH: Did we talk about the roof units?

MR. COPPOLA: We did. We talked about there will be a parapet here that's going to hide anything on the roof. There's an area in the back on the plan that will probably have -- where the chiller is going to be. That's where there's trash. It's a terraced area back in here. So we will hide anything that's going to be on the roof and screen anything that's going to be on grade -- at grade.

MS. ARENT: Can you write that on the plan?

MR. COPPOLA: I will.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: Are you still proposing that 30-foot sign?

MR. COPPOLA: No. The sign is -- where

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did my sign go? Well, the existing Knights Inn sign remains, the one on 17K. The monument sign on 300 is 13 feet high. That's that one here. So that will be a smaller monument sign. Then the larger sign, the existing sign stays, and then the signage on the building.

MR. FOGARTY: Good. Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No more comments. Thank you.

CHAIRMAN EWASUTYN: I'll move for a motion to grant architectural approval for the Holiday Inn located on Route 17K based upon the presentation made tonight by the Architect, AJ Coppola.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Tom Fogarty. Is there any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

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MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. Motion carried. Approval granted.

MR. COPPOLA: Thank you.

CHAIRMAN EWASUTYN: I'll move for a motion to set this for a public hearing for the Route 17 -- for the Holiday Inn on Route 17K for the subdivision for the meeting of December 2nd.

MR. WARD: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward. I have a second by Joe Profaci. 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. So carried.

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Andrew, if you'll work with Bryant Cocks, our Planning Consultant, in reference to the mailings and circulation.

MR. FEATHERSTON: Certainly.

(Time noted: 7:33 p.m.)

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

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

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DATED: December 16, 2010



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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 and R-3 Zones

----- X

ARCHITECTURAL REVIEW BOARD

Date: November 18, 2010  
Time: 7:33 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: SUSAN SASSOON

----- X

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

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2 MR. PROFACI: The next item on  
3 tonight's agenda is The Marketplace at  
4 Newburgh for ARB, Architectural Review  
5 approval, Route 300 and Route 52 with  
6 multiple section, block and lot numbers,  
7 located in the IB and a small portion in  
8 the R-3 Zone, represented by Susan Sassoon.

9 MS. SASSOON: Hi. I'm Susan Sassoon  
10 with Rosenbaum Design Group for Shop Rite. The  
11 Shop Rite building that we are presenting is  
12 going to be a precast concrete building. The  
13 front of the building is going to be mostly  
14 efface. Mostly all of this, what you see, is  
15 efface, and then down here it's going to be a  
16 concrete block.

17 Our materials are here. This is the  
18 block, this is the efface colors. We're going to  
19 have an accent band stripe across the front here.  
20 We're going to have an asphalt shingled roof here  
21 on the canopy.

22 Design features for the signage. On  
23 both sides we've got this tower element. This  
24 signage is going to turn the corner here. The  
25 main view is at the entrance. This side is going

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to be a main view, so we have nice landscaping across here.

We've got a large mechanical unit up on the roof that we're going to completely screen with metal panels. That's going to be colored to blend in with the color of the precast panels.

Everything around the back is going to be uniform in color, uniform with the stripe.

We're going to have some small metal canopies at the back over certain areas, and for that we're going to -- it's going to be a standing seam metal canopy that's going to match the color of this stripe.

So that's pretty much the materials and colors around the exterior of the building.

This is the floor plan. In the front of the building we've got the entry vestibule here. We've got our tower element here, which is where people are going to enter and come into the building from this side.

There's going to be a sidewalk, a ramp for the carts to easily get up over here, and another entrance here.

On this side there will be a bottle

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return under the other tower element so people can come over here, return their bottles exterior and then come in here into the store.

We also have a Shop Rite home area here where people can order over the internet and come in and pick up their food here from their car and bring it right out to their cars without going into the main store.

Around the side of the building here, this is going to be fully landscaped with sidewalks going all the way to the back and connecting to this piece of the site here.

The landscaping that we chose is the same. It coordinates well with everything else that's on the site. It's the same type of vegetation.

Around the back we've got an outdoor cooler box here and a loading platform. This loading platform is going to be screened with a concrete block wall that's going to match the precast panels.

Back here is our truck loading area. We've got a compactor, we've got a ramp back here. Then back here we've got another exterior

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cooler and loading platform that's pretty much going to be hidden from view from anywhere.

The back of the site, this area is going to be 52 inches lower than the front of the site, so there's a grade change from front to back.

That's about it. Any questions?

CHAIRMAN EWASUTYN: Thank you. Frank Galli?

MR. GALLI: We discussed the mechanicals at the work session. Are they going to be on the roof?

MS. SASSOON: Yes.

MR. GALLI: Are they going to be screened?

MS. SASSOON: Yes.

MR. GALLI: What material are you going to use to screen them?

MS. SASSOON: It's going to be metal paneled.

MR. GALLI: Metal paneled white?

MS. SASSOON: No. It's going to be the same color as the concrete. This is it right here.

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MR. GALLI: Okay. That's all I have.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have no questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

MR. FOGARTY: I just have one on the bottle return. The bottle return area, the ones that I've seen that are inside of stores are usually not the most attractive areas of the store.

MS. SASSOON: Right.

MR. FOGARTY: I'm just wondering about having it on the outside of the building.

MS. SASSOON: Well we have screened it from view. This area here is going to be windows and a bulkhead similar to what we've got here in the vestibule. These windows will be an opaque glass, so you won't see through them. It will be screened. You'll be able to see it from the sides, but you need to, so --

MR. FOGARTY: Okay. Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: The screening on the roof, is it total?

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MS. SASSOON: Yes. It's around the full perimeter of the units.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Where do you stage your shopping carts throughout the day?

MS. SASSOON: They're mostly in this exit vestibule here. In the entry/exit vestibule. We have most of the carts here. Outside in the parking lot, on the site plan you see there are some cart corrals out there.

CHAIRMAN EWASUTYN: And you will have a section of the front of the building that will be for outdoor displays?

MS. SASSOON: Yeah. For seasonal displays. In between this vestibule and this exit vestibule we'd like to have an area for seasonal displays underneath the canopy.

MR. DONNELLY: There are very specific limitations on how that may be carried out in the resolution of site plan approval that will need to be complied with.

MS. SASSOON: Okay.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

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2 MR. CANFIELD: Just one item. On the  
3 screening for the rooftop units, the material and  
4 color to be used, if that could be included in  
5 the architectural drawings. Sometimes it's  
6 separate.

7 MS. SASSOON: Yeah, it will be part of  
8 the plan. We do have to provide the structure to  
9 support it all around it. Actually, it's going  
10 to be steel from the building and tied into the  
11 roof steel. Yes, it will be on the construction  
12 documents.

13 MR. CANFIELD: Thank you. I have  
14 nothing else.

15 CHAIRMAN EWASUTYN: Pat Hines, Drainage  
16 Consultant?

17 MR. HINES: I have nothing.

18 CHAIRMAN EWASUTYN: Bryant Cocks,  
19 Planning Consultant?

20 MR. COCKS: I have nothing.

21 CHAIRMAN EWASUTYN: Karen Arent,  
22 Landscape Architect?

23 MS. ARENT: I have comments with regard  
24 to landscaping. It would be -- the plan only  
25 shows evergreen trees and small flowering trees.



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It would be nice to see some landscaping that has a little more layers with some shrubs in it.

Also, the landscaping doesn't cooperate with the overall Marketplace landscape plan. The island near your bottle return area has a different large tree in it.

MS. SASSOON: Okay.

MS. ARENT: Just make sure that coordinates with the larger landscape plan.

MS. SASSOON: Okay.

MS. ARENT: A separate landscape bond and inspection fee must be approved for this project, this landscaping project.

Your architectural drawing should -- you should put into the signage chart a list of the quantity and square feet of the proposed signage shown on your drawing, and that has to coordinate with the overall guidelines that were approved for The Marketplace signage. They allocate a specific square footage of signage based upon the size of the building. You have to write that into your architectural drawings.

MS. SASSOON: Okay.

MS. ARENT: And then on The Marketplace

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we've discussed the street furniture such as benches. If you can show some benches in your plan. Again, coordinate the style of the bench with the style that will be used throughout The Marketplace --

MS. SASSOON: Sure.

MS. ARENT: -- project. That's it.

MS. SASSOON: Okay.

CHAIRMAN EWASUTYN: Ken Wersted, do you have anything to add to the ARB?

MR. WERSTED: With the Shop Rite From Home feature, do you find that customers will pull up curbside to pick up groceries?

MS. SASSOON: There will be some specially designated parking spots for them in the parking lot.

MR. WERSTED: Okay.

CHAIRMAN EWASUTYN: Mike, would you give us conditions of approval for the ARB for the Shop Rite being presented this evening?

MR. DONNELLY: I think it will ultimately be, with one exception, and that is how you want to handle Karen's issue, our standard conditions. However, I think before you

1  
2 can act on ARB you need to take care of this  
3 proposal under your existing SEQRA procedures.  
4 You do have an F.E.I.S. and a Findings Statement.  
5 If you don't have any need to amend the Findings,  
6 you could issue a SEQRA consistency  
7 determination, but you may need, since that also  
8 covers the site plan, to discuss the site plan  
9 elements first.

10 CHAIRMAN EWASUTYN: Site plan elements  
11 meaning of the overall Marketplace?

12 MR. DONNELLY: Yes.

13 CHAIRMAN EWASUTYN: Would you remind us  
14 and we'll hold taking action on this until we  
15 review the next item on the agenda?

16 MR. DONNELLY: Right. Before we leave  
17 it, Karen has made some suggestions regarding the  
18 changing of species of some plantings. Would you  
19 be satisfied, as a condition, that you receive a  
20 letter from Karen that those changes, to her  
21 satisfaction, have been submitted or would you  
22 want the applicant to return to the Board to  
23 discuss those items?

24 CHAIRMAN EWASUTYN: I think it's always  
25 been customary that we get a letter from Karen.

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This is no different than any case --

MR. DONNELLY: I agree.

CHAIRMAN EWASUTYN: -- from Pat Hines that he reviewed the outstanding items. I'll leave it up to the Board.

MR. GALLI: The letter is fine.

MR. MENNERICH: The letter is fine.

MR. PROFACI: The letter.

MR. FOGARTY: The letter.

MR. WARD: The letter is fine.

CHAIRMAN EWASUTYN: Okay. We'll come back to any final action on that after we hear the next item on the agenda that will be spoken about by Joe Profaci.

MS. SASSOON: Okay.

(Time noted: 7:44 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 16, 2010

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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 and R-3 Zones

----- X

AMENDED SITE PLAN

Date: November 18, 2010  
Time: 7:44 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROBERT WILDER

----- X

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

1  
2 MR. PROFACI: The next item on  
3 tonight's agenda is also The Marketplace at  
4 Newburgh, amended site plan, located at Route 300  
5 and Route 52, multiple section, block and lot  
6 numbers, located in the IB and a small portion of  
7 the R-3 Zones, being represented by Bob Wilder.

8 MR. WILDER: Good evening. I'm Bob  
9 Wilder, Wilder, Balter. I have here Mark Gratz  
10 of Divney, Tung & Schwalbe, the site engineer.  
11 On November 5th we sent the Board this  
12 application for amended site plan approval, and  
13 in it we listed not only the drawings that were  
14 submitted but also the summary information with  
15 respect to past approvals that we received. As  
16 we all know, the original approval that we  
17 received was back in 2008 when we received the  
18 first site plan approval and the SEQRA  
19 determination. In there -- it's a relatively  
20 long approval document, probably thirty pages.  
21 With respect to the Findings, it contemplated  
22 that we would be coming back multiple times as we  
23 acquire tenants, Shop Rite being one of them, and  
24 BJs and others, to amend the site plan, and there  
25 were about a half a dozen requirements that we

1  
2 needed to comply with every time we came back as  
3 it relates to a Findings Statement.

4 Specifically the lifestyle center is an  
5 area that's approximately 18 acres along Route  
6 300. What we've done to modify the lifestyle  
7 center is really to open up the parking area in  
8 between here and have the smaller stores be on  
9 the outlying areas as opposed to a center road  
10 through the lifestyle center where then people  
11 would have to drive through, and then find a  
12 place to park, and then walk around and get to  
13 the building. This is the retailers not only in  
14 today's market but markets even a couple years  
15 ago. The lifestyle center concept had some  
16 positives and some negatives, but for the most  
17 part a lot of retailers wanted people, if they  
18 drove in, to be able to locate where their  
19 facilities were by their signage. This plan  
20 meets their needs.

21 We've got a lot of the entry as you  
22 look at the site from 300. Similar, especially,  
23 we have a double-sided building here. So that  
24 from an architectural point of view you really  
25 get a small shop look, not only from -- as you



1  
2 drive along 300, but as you come into the main  
3 drive of the center you're looking not at the  
4 back of a building but really it's a double-faced  
5 -- effectively a double-faced building.

6 One of the items that came up at the  
7 workshop was to put screening and fencing here so  
8 that any kind of loading areas would be screened,  
9 and the site plan Divney, Tung & Schwalbe has now  
10 submitted shows that.

11 I think a lot of the overall  
12 characteristics of the lifestyle center are the  
13 same as you saw before. The requirement under  
14 the Findings was a minimum of 100,000 square feet  
15 in buildings less than 20,000 square feet. That  
16 has been complied with. The lifestyle center is  
17 approximately 180,000 square feet. There's an A  
18 building of 30,000 feet. Notwithstanding that  
19 30,000 foot building, all the rest of the  
20 buildings are 20,000 feet. The majority of them  
21 are frankly under 15,000 feet. Some are even  
22 under 5,000 feet.

23 In terms of the landscaping design, we  
24 tried to hold most of the design criteria that  
25 was established back in 2008. In 2008 one of the

1  
2 comments on page 17 of the final approval says  
3 architectural plans for public architectural  
4 features, such as the bandstand and flag pole,  
5 and all public landscaped areas of the lifestyle  
6 center shall be finalized during review of the  
7 ARB application submitted for the first building  
8 in the lifestyle center. So there was -- at that  
9 time we all realized, notwithstanding some of the  
10 drawings and sketches that our architect and  
11 engineers made, that the finalization of those  
12 items would be dealt with and we would bring in a  
13 site plan for the first building in this area.

14 Specifically also there was a drawing  
15 called SW-1 which I think was brought up in the  
16 5:00 meeting, not by name, but one of the  
17 comments by Karen Arent was at the scale it was  
18 very difficult for her, or anybody, to really  
19 tell exactly what was going on in terms of  
20 sidewalks, were they going to be concrete, were  
21 they going to be brick, exactly what the  
22 plantings were. What we're committing to in 2008  
23 and what we're committing to in 2010 is to follow  
24 all the tenants laid out in drawing SW-1, which  
25 is a component of the site plan approval.

1  
2 Specifically it calls for not only the wider  
3 sidewalks but it also calls for the brick pavers  
4 and the other elements, and the shrubs and the  
5 benches and the lighting details. So I think  
6 that as part of the original site plan, the  
7 Planning Board has all those drawings so that it  
8 can feel assured that in approving an amended  
9 site plan, that it's going to have the same  
10 elements and characteristics that were envisioned  
11 back in 2008 -- or actually 2006 to 2008.

12 I think that pretty well covers it.  
13 What we've done is -- as you probably know, or  
14 probably remember, what we've done in order to  
15 minimize the cuts and fills is we've lowered this  
16 portion of the site plan, which you know about  
17 from our amended site plan. Number one, we  
18 lowered this approximately three feet. We're now  
19 lowering this section approximately three feet  
20 consistent with this. So we haven't changed the  
21 main road coming in, which we call road A, but  
22 this area has been reduced by about three feet on  
23 average. We were able to do that because we were  
24 able to lower some of the -- it really was driven  
25 by the drainage and the ability to get stormwater

1  
2 in the basin, what we call detention basin AA I  
3 think it's called.

4 In any event, most of the fundamental  
5 storm drainage characteristics of the site  
6 haven't changed. Basin AA has changed a little  
7 in shape and it's changed a little in size. Some  
8 of those are DEC requirements in terms of the  
9 size of it and its capacity. It was in the range  
10 of 2,700,000 gallons before and it's a little  
11 under 3,000,000 gallons now. There a 3,000,000  
12 gallon requirement at the DEC. If you go over  
13 3,000,000 gallons it creates other issues that we  
14 didn't want to address or have to deal with. This  
15 is under 3,000,000 gallons. It also has the same  
16 outflow structure concept, which is the water  
17 then comes out here and goes under some concrete  
18 culverts that then go into Winona Lake. Is that  
19 what it's called? Winona Lake.

20 All the utilities -- the lighting.  
21 What we've done on the lighting is, with respect  
22 to the lighting in front of all these buildings,  
23 we've used the same kind of small, I won't call  
24 them historic but lighting at a scale that's more  
25 -- it gives the center more of a residential

1  
2 scale feel than a commercial feel, and in the  
3 center of the parking lots we have the higher  
4 lights in order to get the required lighting that  
5 the tenants require in terms of foot candles.

6 I did hear an earlier comment, I think  
7 it was by Bryant, dealing with a couple of  
8 lighting fixtures that he thought may -- we may  
9 want to address. Frankly I think he's right. We  
10 saw it in his letter and we looked at it and it  
11 made sense, the comments. We're going to make  
12 those changes.

13 The landscaped areas remain pretty much  
14 the same. The bandstand, we haven't -- it's been  
15 called a gazebo, but the bandstand area in terms  
16 of green space, it's actually a little larger.  
17 When we come back in for the next round we'll  
18 have that completely finalized from a design  
19 point of view.

20 Do you want to say anything, Mark, or I  
21 got most of it?

22 MR. GRATZ: I think you did.

23 MR. WILDER: We're here to answer any  
24 questions or hear any comments from the  
25 consultants that we haven't already received.

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CHAIRMAN EWASUTYN: Any comments from Board Members. I'll start with Frank Galli.

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No additional.

MR. PROFACI: Nothing.

MR. FOGARTY: I just have a quick one. Karen brought it up during the work session. Who coordinates -- is it our responsibility to coordinate the signage and all of that as we move from one project to the next?

MS. ARENT: In the D.E.I.S., as part of the approval for the entire project, there were signage guidelines, and they were approved by the Zoning Board also. So we just have to make sure that each project includes like a chart that states that and how that particular building is adhering to those guidelines.

MR. WILDER: The signage was a little complicated. As you may know, in the Town of Newburgh the signage ordinance is a little out of date and therefore -- maybe way out of date is more appropriate but a little out of date sounds better. So the Planning Board suggested we hire

1  
2 a signage consultant, which we hired, to work  
3 with the Planning Board and work with us to come  
4 up with something that was reasonable. What the  
5 Board had told us was we know you need changes  
6 but we're not all signage consultants so we think  
7 we should have one. We brought one in. The  
8 ultimate signage ended up being a function -- I  
9 think the square footage was a function of the  
10 face, the visual face of the square footage of  
11 the buildings, the front square footage as  
12 opposed to building square footage, and each  
13 tenant then would have their proportionate amount  
14 of signage based on that, I'll call it face  
15 square footage. There were other constraints.  
16 We went into an awful lot of -- an awful lot went  
17 into determining what would be a good signage  
18 plan consistent with today's standards is my  
19 recollection.

20 MR. DONNELLY: As we move forward to  
21 implement that there will be two pieces. Each  
22 time there is an amended site plan we'll have to  
23 make sure that the signs that are shown for that  
24 portion of the site are properly located and that  
25 they fit within the parameters of the table, and

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then Code Compliance will actually be issuing sign permits for each of those signs after those individual site plan approvals occur.

MR. FOGARTY: Thanks.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: You covered my comments about the two areas with lights. Thank you.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Nothing additional.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We looked at the plans that were presented. Both stormwater management facilities will be constructed during the initial construction sequence, so they're going to be there.

There are some minor changes to the tributary areas. The applicant's representative needs to provide us with some information regarding how those tributary areas have changed and the functioning of the ponds. The overall plan for stormwater management continues to meet the water quality and quantity control required



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2 for compliance with the site plan and the  
3 previous SEQRA analysis.

4 Construction completion requirements  
5 notes on sheet 1, and I may have missed this at  
6 the previous amended site plan, but they have a  
7 note that says the roadways won't be constructed  
8 unless relief has been granted by the Planning  
9 Board. We're suggesting in all the notes that  
10 say unless relief has been granted, that that be  
11 removed.

12 The utilities, we looked at the water,  
13 sewer and drainage. Although the site has been  
14 lowered in elevation, the utilities, water, sewer  
15 and drainage, continue to function similar to the  
16 originally approved plans. Obviously rims,  
17 inverts and such have been modified, but it is  
18 similar to the original plans.

19 Our last comment has to do with the  
20 modifications of the site grading. There is no  
21 increase in disturbed area. Based on the  
22 modified site grading it may be a little less  
23 because of the reduction in grades and less fill.

24 Based on our review of the plans, no  
25 significant environmental impacts will result

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from lowering the finished floor elevations.

That's all we have.

CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

MR. COCKS: In regards to the lighting that Mr. Wilder was talking about, there were just a couple fixtures that I thought were mis-labeled probably. It was just on the side of the Best Buy building and on the side of building 2. Just put 14-foot high lights instead of the 35-foot high lights. And also near the intersection of the A and B, they're just a straight 35-foot high double-fixture light. It didn't look like it was in the right area. That was my only comment that was not addressed in regard to the site plan.

In regard to SEQRA and the Findings Statement and with the last site plan amendment, there were six criteria for the site plan to meet the requirements of the Findings Statement when the site plan is going to be changed. The first one is the proposed site plan revisions will not result in an increase in building square footage or impervious surfaces than previously reviewed.

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2 The second is the proposed uses on the site are  
3 permitted by current zoning and are the same as  
4 reviewed during the SEQRA process. The third is  
5 the buffers have not been decreased. The fourth  
6 is the limits of disturbance shown on the grading  
7 plan have not been expanded. The fifth is the  
8 access points remain as approved. The sixth is  
9 the size of the lifestyle center has not been  
10 reduced to below 100,000 square feet. This new  
11 plan meets this criteria.

12 As with the last site plan amendment, I  
13 think a SEQRA consistency document would be  
14 required.

15 CHAIRMAN EWASUTYN: Thank you, Mr.  
16 Cocks.

17 Karen Arent, Landscape Architect?

18 MS. ARENT: A couple of my comments  
19 were addressed during Bob Wilder's presentation.

20 The comment regarding what the gazebo  
21 space will look like, that will be addressed  
22 during architectural review of the first  
23 building.

24 The other comments with regard to the  
25 landscaping and the architectural overall look to

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the project, it seems that it will remain the same as what was presented during review of the first drawings.

The only other comment is that the planting plans for the stormwater management basins should be included with the detailed landscape plans as referenced on the title block on the landscape drawings. That's it.

CHAIRMAN EWASUTYN: Mark, is that understandable?

MR. GRATZ: Yes.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: There are basically two sets or two types of crosswalks in the project, one is their standard striped flush crosswalk, the other is a raised crosswalk which has a feature of a traffic calming effect to the area. To keep a consistent pattern of the raised crosswalks, I suggested that the first set at the southern end of the lifestyle center be removed and be replaced with the typical flush crosswalk. That provides more of an even distributed pattern of the raised crosswalks through the lifestyle

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area.

The second comment we had had to do with the truck entry through entry A. The right-turn lane has a smaller radius that wouldn't necessarily accommodate a truck. If that radius can be increased, that would allow a vehicle to come in to entry A and circulate down to the south to service the first building there without having to circulate all the way through the site to reach that.

Then the last comment was a minor one. Being that some of the crosswalks show the detail of a curb ramp while others don't, I noticed a lot of crossing and ramps here, but obviously a pedestrian accessible/wheelchair accessible ramp would have to be installed at each one of the crossings.

That was all of our comments.

CHAIRMAN EWASUTYN: At this point I'll turn to our Planning Board Attorney, Mike Donnelly, for his recommendations to the Planning Board.

MR. DONNELLY: As you know, you required a full Environmental Impact Statement

1  
2 for this project and you issued SEQRA findings,  
3 indeed several amendments after that. It's been  
4 the approach of the SEQRA documents to  
5 contemplate amendments as the project gets more  
6 specific with individual users.

7           When the applicant last had an  
8 amendment you asked your consultants to look at  
9 the proposed amendment and determine whether  
10 there were any new environmental issues not  
11 addressed in the EIS. If there were none,  
12 whether the Findings adequately addressed what  
13 changes were proposed. Your consultants did that  
14 for you and that led you to the conclusion that a  
15 document we call a SEQRA consistency  
16 determination be issued, and that was the process  
17 you followed in September when you granted the  
18 first amended site plan. I believe you should  
19 follow the same process here now.

20           You've heard your consultants, and but  
21 for a handful of technical items that can be  
22 resolved by minor map changes, and we can  
23 incorporate that into any resolution if you move  
24 forward, I think you've heard that there are no  
25 new environmental issues raised, that all of what

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2 is proposed here in the second amendment are  
3 addressed in the EIS, and that the Findings, and  
4 Bryant quoted from some of the more significant  
5 parts of that document, all contemplate this  
6 development. None of those Findings are violated  
7 and none of the trigger events that would require  
8 further environmental review have been exceeded.  
9 Therefore I believe it would be appropriate for  
10 you to issue again a SEQRA consistency  
11 determination. Bryant will prepare that document  
12 for you as he has in the past. You are familiar  
13 with the language contained within it because  
14 you've followed that process a number of times in  
15 recent years on this and other projects.

16 After you've issued that document, if  
17 that's the direction you go, you would be in a  
18 position to act on both the Shop Rite ARB  
19 proposal as well as this second amended site plan  
20 application.

21 CHAIRMAN EWASUTYN: Mike, can we then  
22 move forward to approve a SEQRA consistency  
23 determination document?

24 MR. DONNELLY: I believe you're in a  
25 position to do that, yes.

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CHAIRMAN EWASUTYN: And that document will be prepared by Bryant Cocks, Planning Consultant?

MR. DONNELLY: That's correct. I love to volunteer him.

CHAIRMAN EWASUTYN: Questions from Board Members?

MR. GALLI: No.

MR. MENNERICH: No questions.

MR. PROFACI: No.

MR. FOGARTY: I have no questions.

MR. WARD: No.

CHAIRMAN EWASUTYN: Having heard the presentation by our Attorney, Mike Donnelly, having listened to Bryant Cocks, our Planning Consultant, as he looked at the Findings Statement and read them aloud, I'll move for a motion to approve a SEQRA consistency determination for The Marketplace at Newburgh, the amended site plan being proposed for us this evening.

MR. PROFACI: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by



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Joe Profaci. 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: Myself. So  
carried.

It's discretionary for the Planning  
Board whether or not they want to have a public  
hearing on the amended site plan for The  
Marketplace at Newburgh. I'll poll the Board  
Members at this time. Frank Galli?

MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: Yes.

MR. WARD: No.

CHAIRMAN EWASUTYN: Myself no.

Let the record show that the Planning

1  
2 Board waived the need for a public hearing for  
3 The Marketplace at Newburgh.

4 At this point, once again, I'll turn to  
5 Planning Board Attorney, Mike Donnelly, to assist  
6 us in the approval of the amended site plan for  
7 both The Marketplace at Newburgh and also for an  
8 action to grant approval for the presentation  
9 made by Susan Sassoon for the proposed Shop Rite  
10 at The Marketplace for ARB approval.

11 MR. DONNELLY: I have before me a draft  
12 resolution for a second amended site plan and for  
13 ARB for this project. The resolution recites the  
14 history of the application, the various SEQRA  
15 documents and Findings issued. It tracks the  
16 description and the nature of this application,  
17 and it then moves forward with incorporating the  
18 SEQRA consistency determination and the Findings  
19 required by your local code.

20 In terms of specific conditions, we  
21 will need sign-off letters from Karen, Bryant,  
22 Pat Hines as well as Ken Wersted. Karen's will  
23 address the species changes to the landscape plan  
24 and the map notes she referenced earlier.

25 Bryant's will refer to his memo of November 12th

1  
2 and the lighting fixture issue. Pat's sign-off  
3 letter will address the map note changes that  
4 were in his memo of November 12th.

5 Ken, I don't have your memo in front of  
6 me. What was the date of your memo to the Board?  
7 I assume it's going to be November 12th.

8 MR. WERSTED: It was November 11th.

9 MR. DONNELLY: You were early. Okay.

10 The resolution will announce that  
11 except as modified for this amendment, that all  
12 of the conditions attached to the earlier site  
13 plans and subdivision approval will remain in  
14 effect. The same as to the SEQRA Findings and  
15 E.I.S. We'll make reference to the Newburgh  
16 Zoning Board of Appeals' decision on the variance  
17 and the conditions included within it. We will  
18 importantly carry the condition, as we did in the  
19 last resolution, that no certificate of occupancy  
20 shall be issued for any establishment shown on  
21 the amended plans until all of the improvements  
22 listed in the map notes as to be completed before  
23 any CO is issued are in fact completed to the  
24 satisfaction of the Town of Newburgh Code  
25 Compliance Department. We will carry your

1  
2 standard commercial ARB condition for the  
3 Architectural Review Board approval. We'll note  
4 that as we move forward, ARB approvals for all  
5 further site specific components to the project  
6 will be required, and that must follow the  
7 unified theme in guidelines set forth in the  
8 SEQRA analysis. We will include that requirement  
9 as well for the lifestyle center as we move  
10 forward. There will be an additional landscape  
11 security and inspection fee due for the Shop Rite  
12 proposal. Karen will need to make a  
13 recommendation on the amount.

14 MS. ARENT: They sent me a cost  
15 estimate and I just sent that to the Town Board.

16 MR. DONNELLY: You need to tell me the  
17 inspection fee.

18 MS. ARENT: I think it most likely  
19 would be \$2,000 but it could be \$1,000. I would  
20 say \$2,000.

21 MR. DONNELLY: I'll say \$2,000. And  
22 the standard condition which states that no  
23 structures, outdoor fixtures or amenities can be  
24 constructed on the site that aren't shown on the  
25 approved plans.

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CHAIRMAN EWASUTYN: Questions or comments, first from our consultants, as presented in the resolution of approval for the amended site plan for The Marketplace and also for the ARB approval of the Shop Rite.

Jerry, do you have anything to add or question?

MR. CANFIELD: No. No comment.

CHAIRMAN EWASUTYN: Pat Hines, Traffic Consultant -- Drainage Consultant?

MR. HINES: No. I have no comments.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I have no comments.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: No comment.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: Nothing further.

CHAIRMAN EWASUTYN: Board Members. Frank Galli?

MR. GALLI: No additional.

MR. MENNERICH: Nothing additional.

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MR. PROFACI: No.

MR. FOGARTY: No comment.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Okay. Having heard the conditions of approval presented by our Attorney, Mike Donnelly, one more time, for the ARB approval for the Shop Rite being proposed at The Marketplace at Newburgh and also for the amended site plan being presented to us this evening by Bob Wilder for The Marketplace at Newburgh, I'll move for a motion for those approvals.

MR. GALLI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. 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.

MR. FOGARTY: Aye.

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MARKETPLACE AT NEWBURGH

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

Thank you very much.

(Time noted: 8:10 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 16, 2010

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

----- X  
In the Matter of

LANDS OF ZAZON  
(2004-29)

Request for an Extension of Conditional  
Final Subdivision Approval

----- X

BOARD BUSINESS

Date: November 18, 2010  
Time: 8:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

----- X

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



1  
2 MR. PROFACI: The last two items on  
3 tonight's agenda are items of Board Business.  
4 The first is the Lands of Zazon, a request for an  
5 extension of conditional final subdivision  
6 approval. The applicant was reissued final  
7 approval at the May 20, 2010 meeting which  
8 expired on September 20, 2010. The applicant is  
9 requesting a six-month extension of final  
10 approval.

11 CHAIRMAN EWASUTYN: I'll move for a  
12 motion to grant the extension for the conditional  
13 final subdivision approval for the Lands of  
14 Zazon.

15 MR. FOGARTY: So moved.

16 MR. GALLI: Second.

17 MR. DONNELLY: Excuse me one second,  
18 John. You'll remember there has been a change in  
19 the State law. Previously a conditional final  
20 subdivision approval was good for 180 days and  
21 could be extended for two additional periods of  
22 90 days each, bringing the maximum duration to  
23 360 days. The change in the statute now says  
24 that a conditional final subdivision approval is  
25 good for 180 days and may be extended for

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2 additional periods of 90 days each if, in the  
3 discretion of the Planning Board, such extensions  
4 are warranted.

5 As in the past, you've granted, and I  
6 believe it was legally permissible to do so, 180  
7 day -- a single 180-day extension. I see no  
8 reason why you can't continue to do that under  
9 the new statute. That would mean if you grant  
10 180 days here, or two 90-days, my arithmetic  
11 tells me 180 days would expire on March 19, 2011  
12 if we run it --

13 CHAIRMAN EWASUTYN: March 19th --

14 MR. DONNELLY: 2011.

15 CHAIRMAN EWASUTYN: I appreciate that  
16 very much. One of the things that actually we  
17 prefer in these letters, and this was deficient,  
18 you're correct, was to actually numerically list  
19 a date.

20 I believe I have a motion that was made  
21 by Tom Fogarty and seconded by Frank Galli.

22 MR. GALLI: Mm'hm'.

23 CHAIRMAN EWASUTYN: And having had  
24 discussion from Mike Donnelly, I'll move to amend  
25 that motion to grant a 180-day extension for the

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LANDS OF ZAZON

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Lands of Zazon until the period of -- March 19, 2011?

MR. DONNELLY: March 19th, yes.

CHAIRMAN EWASUTYN: March 19, 2011.

MR. DONNELLY: Correct.

CHAIRMAN EWASUTYN: So there was discussion, the motion has been amended. Any discussion on the amended motion?

(No response.)

CHAIRMAN EWASUTYN: There being no further discussion, 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.

(Time noted: 8:13 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 16, 2010

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

----- X  
In the Matter of

GOLDEN VISTA  
(1999-33)

Discussion of Possible Extension of Conditional  
Final Site Plan Approval

----- X

BOARD BUSINESS

Date: November 18, 2010  
Time: 8:13 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

----- X

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

1  
2 MR. PROFACI: The second item of Board  
3 Business is Golden Vista, discussion of a  
4 possible extension of conditional final site plan  
5 approval. The current site plan approval will  
6 expire on March 10, 2011 and the applicant is  
7 requesting a one-year extension.

8 MR. DONNELLY: As you know, your site  
9 plan approvals are good for two years and may be  
10 extended for one additional period of one year,  
11 bringing the maximum duration to three years. As  
12 you also know, with this applicant they have  
13 received from the Town Board the affordable  
14 housing approval for the site, and they have  
15 before you an amended site plan which will change  
16 the configuration of the project.

17 I think what the applicant is asking,  
18 since they're not entitled to that change as of  
19 right, is that their existing approval continue  
20 up until the time that they receive their amended  
21 approval, if in fact they do. Obviously any  
22 resolution of approval that you would grant on  
23 the amended approval would require that the  
24 earlier granted, and by then inconsistent, site  
25 plan approval would be a nullity and they would

1  
2 not be able to build that project. In other  
3 words, they can't have two approvals. But when  
4 they get their new amended approval, if they do,  
5 it will replace and supercede the existing one.  
6 So I think the request for an extension is  
7 probably warranted. I'm not sure it's needed  
8 since the existing approval looks like it runs  
9 until March of 2011. Maybe they think it's going  
10 to take them longer than that to finish what they  
11 need to do to bring it to the Board.

12 I suggest another reason for that, and  
13 that is, as you know, the Town Board has now  
14 passed the affordable housing -- not just  
15 affordable housing, the new approach to measuring  
16 density for residential projects in the Town  
17 which implicates the methodology used for the  
18 approval for the affordable housing this  
19 applicant has. One of the issues that raises is  
20 is that approval, the affordable housing  
21 approval, granted by the Town Board still valid.  
22 As you know, the Town Board has discussed the  
23 possibility of a second local law that will grant  
24 some types of grandfathering for different kinds  
25 of projects. One of the pieces of that law, from

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2 what Mark Taylor has told me, is a provision that  
3 may give grandfathering to applicants that have  
4 already received affordable housing approvals but  
5 only if they also have an approved site plan in  
6 place. If this applicant were not to have an  
7 extension, they wouldn't be able to satisfy the  
8 second of those two requirements. So I think in  
9 fairness to the applicant and in order to ensure  
10 that they don't lose the approval they have in  
11 the event they can't receive the one for the  
12 amended approval, it's appropriate to extend it.

13 I would suggest you give it six months.  
14 I suppose you could give it the whole year. Six  
15 months would take you to next September 10, 2011.  
16 I can't imagine that's not enough time. Your  
17 ordinance does permit a one year, which would be  
18 to March 10, 2012.

19 CHAIRMAN EWASUTYN: Would the Board be  
20 satisfied with that?

21 I would like to move for a motion,  
22 having heard from Mike Donnelly, to grant a six-  
23 month extension for Golden Vista to September 10,  
24 2011.

25 MR. GALLI: Six months is fine.



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GOLDEN VISTA

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MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. 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.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Bryant, you'll follow up and notify them?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: I would like to take the opportunity to wish everyone a happy Thanksgiving. My wife and I are having an open house next Wednesday, egg nog and cookies, if you want to stop by.

I'll move for a motion to close the Planning Board meeting of the 18th of November.

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MR. GALLI: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli a second by Joe Profaci. Roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:18 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 16, 2010