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

----- X  
In the Matter of

LANDS OF FINNIGAN  
(2007-21)

71 Fifth Avenue  
Section 70; Block 1; Lot 3  
R-3 Zone

----- X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: November 15, 2007  
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  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: MICHAEL AIELLO

----- X

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

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CHAIRMAN EWASUTYN: Good evening,  
ladies and gentlemen. I would like to welcome  
you to the Town of Newburgh Planning Board  
meeting of the 15th of November.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. O'DONNELL: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Myself present.

The Town of Newburgh Planning Board has  
experts that make recommendations to the Planning  
Board in reaching various SEQRA determinations.  
I'll ask at this time that they introduce  
themselves.

MR. DONNELLY: Michael Donnelly,  
Planning Board Attorney.

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

MR. COCKS: Bryant Cocks, Planning  
Consultant, Garling Associates.

MS. ARENT: Karen Arent, Landscape

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Architectural Consultant.

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

CHAIRMAN EWASUTYN: At this time I'd like to turn the meeting over to Cliff Browne.

MR. BROWNE: Please rise.

(Pledge of Allegiance.)

MR. BROWNE: If you have any cell phone devices, would you please shut those off now.

CHAIRMAN EWASUTYN: The first three items on the agenda this evening are public hearings. The first one we have is the lands of Finnigan. It's a public hearing for a two-lot subdivision located on Fifth Avenue in an R-3 Zone. It's being represented by Mike Aiello.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Finnigan for a two-lot subdivision on premises 71 Fifth

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2 Avenue in the Town of Newburgh, designated on  
3 Town tax map as Section 70; Block 1; Lot 3. Said  
4 hearing will be held on the 15th day of November  
5 at the Town Hall Meeting Room, 1496 Route 300,  
6 Newburgh, New York at 7 p.m. at which time all  
7 interested persons will be given an opportunity  
8 to be heard. By order of the Town of Newburgh  
9 Planning Board. John P. Ewasutyn, Chairman,  
10 Planning Board Town of Newburgh. Dated October  
11 11, 2007."

12 CHAIRMAN EWASUTYN: Dina Haines,  
13 Planning Board Secretary.

14 MR. HINES: The public hearing was  
15 published in The Sentinel on November 9th and in  
16 The Mid-Hudson Times on November 7th. The  
17 applicant's representative sent out thirty-five  
18 registered letters and twenty-five were returned.  
19 All the publications and mailings are in order.

20 CHAIRMAN EWASUTYN: Thank you.

21 Before I have Mike Aiello present the  
22 two-lot subdivision, Mike Donnelly, Planning  
23 Board Attorney, will explain to the public where  
24 we are in the process and the purpose of a public  
25 hearing.

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MR. DONNELLY: In each of the matters that are on for public hearings tonight the applicant has been before the Board on prior occasions refining his plan. The public hearing is held so that before the Planning Board takes action on the plan, you, the public, have an opportunity to address the Board. The idea is for you to bring matters to the attention of the Planning Board that it may not itself be aware of, either through the members of the Board or through the consultants. After the presentation is given in each case by the applicant's representative, the Chairman will ask those who wish to speak to raise their hand. When you're identified I would ask you to please give us your name, spell it for our Stenographer so we get it down correctly, come forward, that microphone isn't on, and direct your comments to the Board. If you have questions and they're ones that can be easily answered, the Chairman will direct the question either to the applicant's representative or to one of the consultants employed by the Town.

CHAIRMAN EWASUTYN: Thank you.

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Mike.

MR. AIELLO: Mr. Chairman, Board, this is a proposal for a two-lot subdivision. The parcel is located at 71 Fifth Avenue here in the Town of Newburgh in an R-3 Zone. It's a three-acre parcel. The proposal is to subdivide it into approximately a two-acre lot, which will include the existing dwelling, and approximately a one-acre lot.

The parcel is in the water and sewer district. Application has been made through the Town of Newburgh to the City of Newburgh for sewer connection. It is served by water and sewer.

Fairly straightforward, fairly simple. It meets all the zoning requirements.

CHAIRMAN EWASUTYN: Thank you. Is there anyone here this evening who has any comments or questions on the proposal before us?

(No response.)

CHAIRMAN EWASUTYN: Mike, you had said something in your presentation and I don't have it in our records. Did you write to Jim Osborne as far as --

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MR. AIELLO: Yes.

CHAIRMAN EWASUTYN: You did. You did get a response back?

MR. AIELLO: No. We called him approximately a week ago and Jim said it takes some time. That was his only response to us.

CHAIRMAN EWASUTYN: Okay. I didn't realize I had a copy of that letter. Were we cc'd on that letter to Jim Osborne, do you know?

MR. AIELLO: I presume you were but if you weren't we'll gladly give it to you.

CHAIRMAN EWASUTYN: Thank you. That was really the only outstanding issue we seem to have on this, the City flow acceptance letter.

MR. AIELLO: I'll review the file. I'll give Dina one tonight if that's okay.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant, your final comments.

MR. HINES: Our comments have been addressed. The topography has been added on the plans. The grading is shown for the driveway. The standard details for water and sewer have been added.

We have no outstanding comments other

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than that flow acceptance letter.

CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

MR. COCKS: We reviewed the plans and  
we have no further comments. The applicant has  
met all zoning regulations and we have nothing  
further.

CHAIRMAN EWASUTYN: Comments from Board  
Members?

MR. GALLI: No additional.

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Is there anyone  
here this evening from the public hearing for the  
lands of Finnigan?

(No response.)

CHAIRMAN EWASUTYN: Okay. At this time  
I'll move for a motion from the Board to close  
the public hearing for the two-lot subdivision  
for the lands of Finnigan.

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?



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(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

At this point I'd like to turn to Planning Board Attorney Mike Donnelly for his recommendation.

MR. DONNELLY: The contract that exists between the City of Newburgh and the Town of Newburgh governing the acceptance of sewer flows from the Town into the City prohibits the Planning Board from issuing final approval for any project that has not received the consent from the City for the acceptance of the flows. It does not prohibit, under the circumstances of this matter, the granting of a preliminary approval. So until that letter is received we can only grant a preliminary approval, therefore

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I suggest the resolution should state that that letter will need to be obtained before final approval can be granted. The only condition that will exist as part of that final approval will be the payment of parkland fees as required by the Code. I would suggest that you can add that to the agenda as an administrative item as soon as the letter is received.

CHAIRMAN EWASUTYN: Any questions about that, Mike?

MR. AIELLO: No, sir. I understand that the only requirement for final other than the payment of the fees is the letter from the City of Newburgh. Is that correct?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Having heard the conditions from Mike Donnelly, Planning Board Attorney, to grant preliminary approval -- to actually further this action, once you receive a City flow acceptance letter we'll bring this under Board business -- from the City of Newburgh. I'll move for that motion.

MR. BROWNE: So moved.

MR. GALLI: Second.

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2 CHAIRMAN EWASUTYN: I have a motion by  
3 Cliff Browne. I have a second by Frank Galli.  
4 Any discussion of the motion?  
5 (No response.)  
6 CHAIRMAN EWASUTYN: I'll move for a  
7 roll call vote starting with Frank Galli.  
8 MR. GALLI: Aye.  
9 MR. BROWNE: Aye.  
10 MR. MENNERICH: Aye.  
11 MR. O'DONNELL: Aye.  
12 MR. PROFACI: Aye.  
13 CHAIRMAN EWASUTYN: Myself yes. So  
14 carried.  
15 MR. AIELLO: Point of clarification,  
16 Mr. Chairman.  
17 CHAIRMAN EWASUTYN: Yes.  
18 MR. AIELLO: Are we to return to this  
19 Board at a meeting for final?  
20 CHAIRMAN EWASUTYN: No. We'll act to  
21 set it up as a Board business item once we  
22 receive the City flow acceptance letter.  
23 MR. AIELLO: Okay.  
24 CHAIRMAN EWASUTYN: We'll notify you  
25 that it is Board business if you would like to be

LANDS OF FINNIGAN

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present. We'll still memorialize it in a letter, the action, and get it off to you. We will notify you when it is a Board business item.

MR. AIELLO: Okay.

CHAIRMAN EWASUTYN: Just for the record, not tonight, you can e-mail Dina your letter to the City -- to Jim Osborne. We didn't seem to have a copy of that.

MR. AIELLO: I was going to give her a copy tonight.

CHAIRMAN EWASUTYN: Thanks.

(Time noted: 7:10 p.m.)

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

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

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DATED: November 23, 2007

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

----- X  
In the Matter of

LANDS OF ADAMO  
(2004-03)

Fostertown Road east of Nelson Drive  
Section 43; Block 1; Lots 1.31, 16 & 17  
R-2 Zone

----- X

PUBLIC HEARING  
FOUR-LOT SUBDIVISION & LOT LINE CHANGES

Date: November 15, 2007  
Time: 7:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

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CHAIRMAN EWASUTYN: The next item we have is a public hearing for a four-lot subdivision and lot line change for the lands of Adamo. It's located on Fostertown Road east of Nelson Drive, it's zoned R-2 and it's being represented by Ken Lytle.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Adamo for a four-lot subdivision on premises Fostertown Road east of Nelson Drive in the Town of Newburgh, designated on Town tax map as Section 43; Block 1; Lots 1.31, 16 and 17. Said hearing will be held on the 15th day of November at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town

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of Newburgh. Dated October 16, 2007."

CHAIRMAN EWASUTYN: Thank you.

Dina Haines, Planning Board Secretary.

MS. HAINES: The notice of hearing was published in The Sentinel on November 9th and in The Mid-Hudson Times on November 7th. The applicant's representative sent out twelve registered letters, eleven were returned. The publications and mailings are all in order.

CHAIRMAN EWASUTYN: Thank you.

Mr. Lytle, would you give your presentation, please.

MR. LYTLE: Good evening. What we're proposing is a subdivision of an existing parcel of land of approximately six acres. It's composed of three individual section, block and lots. One has an existing residence which is located along Fostertown Road currently.

During this process a private road would be constructed approximately 250 foot long giving access to four lots in the rear of the parcel.

Septic systems have been designed according to Code. Wells are proposed.



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We met with the County and we have the County approval for the road entrance, location and sight distances.

If the Board has any additional comments.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to the public. If there's anyone here this evening who has any comments, would you please give your name and address.

DR. TOJINO: Good evening. My name is Dr. Conrado Tojino and I live -- we basically own the property 39 to 40 Nelson Drive. I appreciate you allowing me to speak tonight. There's been a concern since we got this letter. My wife and I basically bought the property because of the wonderful privacy that we have, and our property line basically abuts the back of his property there. Exactly. There basically was a bluff or some pine trees or evergreen trees that basically came all across that whole back of the property line. It was basically established in 1984 when the original owners planted these trees, so they're over twenty years old. They provided quite a privacy for us and we didn't see his

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2 property at all. Over a year ago he, Mr. Adamo,  
3 hired somebody to cut the bottoms of these trees  
4 for some unknown reason. The person that lives  
5 on 40 Nelson Drive approached Mr. Adamo and asked  
6 him to stop doing this and he refused to do it  
7 and continued to have his person cut the bottoms  
8 of the trees. As a result many of the trees died  
9 and we basically lost this bluff or privacy tree  
10 fence that we had.

11 If you wouldn't mind, I'd like to just  
12 submit some pictures for you to view. Would that  
13 be okay?

14 CHAIRMAN EWASUTYN: It's not really a  
15 policy to submit something the night of the  
16 meeting, but go ahead.

17 DR. TOJINO: Basically this is -- if I  
18 can just pass this to you. This is basically the  
19 trees that were not cut. This is where he  
20 started cutting the trees. You can see that some  
21 of the fence -- basically some of the trees died.  
22 This is more of the bluff. This is Mr. Adamo's  
23 property right here with some of the trees gone.  
24 You can see right into his property. You can see  
25 -- I have quite a few pictures here but you can

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clearly see right into the property. I'll just pass these. I have about ten pictures if you would like to look at them. So it clearly impacts our privacy, especially when they're going to be putting three houses right adjacent to it.

What we respectfully request is that the Planning Board seriously consider and request Mr. Adamo to replace our privacy by planting more trees and creating that bluff for us again. At the time that he did this we were not in ownership of the property, it was actually under Root, Edith Root. She also was concerned about this and has a letter here concerning -- giving her concerns about it. I think, you know, the concern overall is that our privacy is going to be significantly reduced because of the cutting down of these trees or bottoms of the trees. So I was just hoping that you would consider this.

CHAIRMAN EWASUTYN: For the record do you want to read Edith Root's statement?

DR. TOJINO: Yes. It says, "Town of Newburgh Planning Board. I would like to go on record as the owner of 40 Nelson Drive at the

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2 time Mr. Adamo sent the crew in to remove and  
3 trim evergreen trees which were on our property  
4 line. These trees were planted as a screen  
5 between properties when my parents first built  
6 their home here in 1984 to 1985. A survey showed  
7 that not only has the crew cut on our property  
8 but they had cut and trimmed trees which were  
9 ours. I share concern with my mother, Ms. Mary  
10 Passenger who has life tenancy on this property  
11 about someone who had already broken the law and  
12 showed no respect for legal boundaries.  
13 Sincerely, Edith Passenger Root."

14 I would also like to go on record that  
15 we would just like to keep our privacy and we  
16 would like to make sure that none of the  
17 construction enters our road and comes onto our  
18 property as well.

19 It's also a concern about the wells.  
20 It is a well.

21 MR. LYTLE: Wells are proposed, yes.

22 DR. TOJINO: The impact of the wells  
23 that will be on us because we also have well  
24 water, and this could also significantly impact  
25 our well system. Thank you.

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2 CHAIRMAN EWASUTYN: You're welcome.  
3 Additional comments from the public?  
4 (No response.)  
5 CHAIRMAN EWASUTYN: Comments from Board  
6 Members. Frank Galli?  
7 MR. GALLI: Why were the trees taken  
8 down, Ken?  
9 MR. LYTLE: I have no idea.  
10 MR. GALLI: Do you have any idea?  
11 MR. LYTLE: No. Again, it wasn't part  
12 of anything we're presenting tonight.  
13 MR. GALLI: I was just curious. It's a  
14 beautiful piece of property and had beautiful  
15 trees it looked like at one time.  
16 MR. LYTLE: I really don't know.  
17 CHAIRMAN EWASUTYN: Cliff Browne?  
18 MR. BROWNE: The trees in question were  
19 on both properties?  
20 DR. TOJINO: They are right on the  
21 property line.  
22 MS. TOJINO: There were two trees that  
23 were on --  
24 CHAIRMAN EWASUTYN: For the record  
25 ma'am, your name?

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2 MS. TOJINO: Samantha Tojino. They  
3 were slightly on his property and the other trees  
4 were all on our property.  
5 MR. BROWNE: Okay.  
6 CHAIRMAN EWASUTYN: Ken Mennerich?  
7 MR. MENNERICH: No questions.  
8 CHAIRMAN EWASUTYN: Ed O'Donnell?  
9 MR. O'DONNELL: Dr. Tojino, how many  
10 trees were cut down?  
11 DR. TOJINO: I'm sorry?  
12 MR. O'DONNELL: How many trees were  
13 affected by this?  
14 DR. TOJINO: At least I think about  
15 fifteen trees.  
16 MR. O'DONNELL: Fifteen. They died or  
17 he removed them?  
18 DR. TOJINO: Probably about a third of  
19 them died and the rest of them became very sick  
20 and very thin and, you know, they basically lost  
21 their full volume.  
22 MR. O'DONNELL: So Karen, what can we  
23 do here to have an appropriate buffer?  
24 MR. DONNELLY: Let me say first we  
25 don't have -- let's pretend there weren't any

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2 trees to begin with. There's no requirement of  
3 our Ordinance for a developer to provide any kind  
4 of screening, at least not between residential  
5 properties and residential properties. We have  
6 provisions between commercial and residential.  
7 Therefore it's not generally your power to  
8 require plantings. I think likewise it's not  
9 really your jurisdiction to require replantings.  
10 If trees were cut down on other people's  
11 property, the law provides a private right of  
12 redress through the courts to remedy that.  
13 That's essentially what I think you're  
14 explaining, a private wrong. The Planning Board  
15 deals with the public and the rights of land  
16 owners as set forth in the Ordinance. While I'm  
17 not minimizing your concern and how it has  
18 damaged what was the pristine state of the land,  
19 it is not really a Planning Board issue unless  
20 the Town Board gives the authority to require  
21 screening between residential properties.

22 MR. GALLI: Is there a limit to the  
23 number of trees that can be cut down on a piece  
24 of property at one time?

25 MR. HINES: In the clearing and grading

1 ordinance, but it's quite a number based on trees  
2 per acre.

3  
4 MR. LYTLE: Most of this was actually  
5 grass at one time. I guess there were trees  
6 around the perimeter.

7 MR. O'DONNELL: If I can finish my  
8 thought.

9 MR. DONNELLY: Sure.

10 MR. O'DONNELL: My intention was not to  
11 provide a directive to Mr. Adamo or anyone else  
12 but to find out how many trees were removed, how  
13 many were damaged and ask the developer to  
14 mitigate that in some fashion, whatever he might  
15 agree to. I know we can't tell him to do it.

16 Kenny, I would like you to have that  
17 conversation with Mr. Adamo to see if he could  
18 soften the blow on this.

19 MR. LYTLE: I can ask him.

20 MR. O'DONNELL: Just ask him. That's  
21 all. We can't tell you to do it. It seems like  
22 perhaps the neighborly thing to do.

23 MR. LYTLE: I'll express your concern  
24 regarding it. If there's some trees over the  
25 line, again it's a legal matter.



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MS. ARENT: If you want suggestions of plant materials just give me a call.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you John.

CHAIRMAN EWASUTYN: As a matter of record, I drove up the driveway and I found the location of the two homes setting on your property, looked at the trees coming down. I have a sense of balance between both properties. In trying to find the balance between both the distance from where your home sits and where these trees are, basically the visual impact -- I say it respectfully, the impact would become greater when you're coming down the driveway. Do you then see into the rear of these properties? Do you then see into the rear yard of the home that has all the cars? There seems to be an abundance of cars in the rear yard of one of the homes. With the one house on the knoll that's being remodeled, there are some fairly stately evergreen trees that screen that rear yard from looking down. So whatever the balance may be. I think as Mr. O'Donnell said, there would be a balance as far as the willingness of Mr. Adamo to

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maybe assist you. Just from looking at it.

Pat Hines, Drainage Consultant?

MR. HINES: We reviewed the project with regard to the wells and septic systems and wells meet the requirements of the Public Health Law. They've been designed in accordance with the applicable requirements with regard to separation distance and sizing of each of them.

The private roadway has been provided with dry swales for water quality impacts and the County Department of Public Works has agreed to accept the runoff from that private road into the existing County drainage system. The Planning Board has that letter of approval for the private road and those drainage structures. Based on that they've addressed our previous comments.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Yes. We only had two comments that the applicant addressed. One was a note there would be no disturbance of stonewalls on the site and the other was just a driveway clean-up item on lot 3.

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After hearing Mr. Tojino's comments and looking at the plans, I would just ask is there any reason why the house on lot 1 is set so far back?

MR. LYTLE: Based on the septic location. It can be pulled forward. They are allowed to build anywhere in the setback.

MR. COCKS: I know. It may mitigate the impact.

MR. LYTLE: We can slide that forward.

CHAIRMAN EWASUTYN: Good point.

MR. COCKS: That was about it, though.

CHAIRMAN EWASUTYN: Ed O'Donnell, I think you have an additional question.

MR. O'DONNELL: Pat, Dr. Tojino mentioned the wells. Can you comment on that?

MR. HINES: I can. It's always difficult to determine potential impacts between wells. The Zoning Ordinance that you have envisions lot sizes of appropriate size to support both on-site water and septic systems with the -- I believe it's one-acre zoning in this area. The lots are slightly larger than that. The separation distances between these

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2 wells would lead me to believe there wouldn't be  
3 impacts between the wells and they should not be  
4 under the influence of each other drawing down  
5 the water table. Again, there's no crystal ball  
6 in saying that impact will or will not happen. I  
7 wish there was. The amount of water that falls  
8 on one acre of land in an average year here far  
9 exceeds the water use anticipated from a  
10 single-family residential house, so there should  
11 be adequate recharge between each of the  
12 residential lots to support them. In addition,  
13 most of the water used in a residential home is  
14 returned through the ground through the septic  
15 system. I don't want to call it recycling but  
16 there is that aspect there. The water is not  
17 transported out of the area but put back into the  
18 ground. That's the best I can address it.  
19 There's no guarantees.

20 MR. O'DONNELL: Thank you.

21 CHAIRMAN EWASUTYN: Additional comments  
22 from the public?

23 (No response.)

24 CHAIRMAN EWASUTYN: Ken, you think you  
25 could meet out in the field? Is there a

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possibility to meet out in the field?

MR. LYTLE: That's not a problem.

CHAIRMAN EWASUTYN: I'll see if the Board wants to agree that you would meet out in the field with Karen Arent, our Landscape Architect, to see if there is any possibility of agreement for softening the visual impact. Would the Board move for that motion?

MR. O'DONNELL: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ed O'Donnell.

MR. GALLI: Second.

MR. MENNERICH: Just under discussion on that. Since it's residential property to residential property, should there be a consideration of sharing in the cost of that?

MS. ARENT: I think we should just ask the developer if he's willing to do it. If he is then that would be fine, otherwise I don't know what the Board -- how to do that.

CHAIRMAN EWASUTYN: Would you be willing to contribute if it became a negotiating point for whatever may be considered for installation of trees?

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2 MS. TOJINO: I don't really feel like  
3 it's fair to us to have to do something like that  
4 since the comment was made to an 86-year old lady  
5 at the time the trees were cut, when she  
6 respectfully asked them why they were cutting the  
7 trees and he said to her well I thought you  
8 wanted to see me and she said I don't believe  
9 we've met and that was it. She was very upset by  
10 that.

11 We value our privacy. When we moved up  
12 here that was the thing that drew us to the area.  
13 We had a first right of refusal agreement between  
14 Mrs. Passenger and ourselves -- Edith Root and  
15 ourselves before this had taken place. So it  
16 indirectly did impact us when it was happening.  
17 It concerns me because I have a son and a child  
18 on the way and the privacy that -- we use that  
19 driveway with their bicycles and everything and  
20 it is now gone. You can drive down Fostertown  
21 Road and see directly up that hill to our  
22 property where before you weren't able to see  
23 that. I like to jog out there myself. As a  
24 woman on a long driveway by myself I feel  
25 concerned. I have to carry my cell phone now

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2 that. My safety has been affected with all those  
3 trees being gone. I just don't think it's fair.  
4 We didn't ask him to do that, he took it upon  
5 himself. So we would have to share in the  
6 expense of replenishing it?

7 CHAIRMAN EWASUTYN: I think the  
8 question is they'll meet out in the field. If  
9 Mr. Adamo has a willingness to provide some kind  
10 of privacy, then that I think -- according to our  
11 Attorney, Mike Donnelly, that's the maximum we  
12 can take, otherwise it becomes a civil matter.

13 Is that not correct, Mike?

14 MR. DONNELLY: Yes.

15 MS. TOJINO: I would like for him to be  
16 a good person and do the right thing by us.  
17 Hopefully he'll do that. Where I'm from we shake  
18 hands and we do things like that. I don't know,  
19 you know, if it will go that route with him. I  
20 hope he will. I understand that you can't impose  
21 for him to do something like that but, you know,  
22 if he's willing to put that wall back or to put  
23 that barrier back in some respect I would be  
24 happy. I'm sure we would be happy with that. As  
25 long as our privacy is restored, that's the main

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thing we're concerned about.

CHAIRMAN EWASUTYN: Any further discussion?

(No response.)

CHAIRMAN EWASUTYN: Okay. I have a motion by Ed O'Donnell. I have a second by Frank Galli I believe. Correct?

MR. GALLI: Mm'hm'.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Nay.

CHAIRMAN EWASUTYN: Aye. We have a majority.

If you would arrange with Karen to meet out in the field with Mr. Adamo and see what you can arrange.

MR. LYTLE: Being a minor point whether he's going to agree to it or not, is it possible to go ahead for final approval?

CHAIRMAN EWASUTYN: Oh, yeah. As



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2 Samantha, and I apologize for using your first  
3 name but I do that all the time with people, she  
4 believes a handshake agreement. At the same time  
5 we can't twist arms. We're not in a position to  
6 twist arms. We're looking for a mutual  
7 agreement. We will act on an action on this and  
8 hope that there could be a meeting of the minds.  
9 MR. LYTLE: Would the meeting be set up  
10 through us or through the Planning Board?  
11 CHAIRMAN EWASUTYN: I think between  
12 yourself and Karen.  
13 MR. LYTLE: That's fine. We'll talk  
14 after and get phone numbers.  
15 MS. ARENT: We just have to meet --  
16 just Ken and I in the field.  
17 MR. LYTLE: That's fine.  
18 CHAIRMAN EWASUTYN: I'll move for a  
19 motion from the Board -- are there any additional  
20 comments from the public before I move for a  
21 motion to close the public hearing?  
22 (No response.)  
23 CHAIRMAN EWASUTYN: Thank you. At this  
24 time I would like to move for a motion to close  
25 the public hearing for the four-lot subdivision

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2 and lot line change for the lands of Adamo.  
3 MR. MENNERICH: So moved.  
4 MR. GALLI: Second.  
5 CHAIRMAN EWASUTYN: I have a motion by  
6 Ken Mennerich. I have a second by Frank Galli.  
7 Any discussion of the motion?  
8 (No response.)  
9 CHAIRMAN EWASUTYN: I'll move for a  
10 roll call vote starting with Frank Galli.  
11 MR. GALLI: Aye.  
12 MR. BROWNE: Aye.  
13 MR. MENNERICH: Aye.  
14 MR. O'DONNELL: Aye.  
15 MR. PROFACI: Aye.  
16 CHAIRMAN EWASUTYN: Myself yes. So  
17 carried.  
18 I'll turn to Mr. Donnelly, Planning  
19 Board Attorney, for conditions of approval.  
20 MR. DONNELLY: This will be a final  
21 approval resolution. The Orange County  
22 Department of Public Works will issue a highway  
23 work permit for the roadway connection. There is  
24 a requirement of a private roadway easement and  
25 maintenance agreement and a common driveway

1  
2 easement and maintenance agreement. I've already  
3 been provided with copies of each. They are  
4 satisfactory but they'll need to be recorded as  
5 part of the process of approval. There will be  
6 the need for a private road security and  
7 inspection fee and payment of fees in lieu of  
8 parkland.

9 CHAIRMAN EWASUTYN: Thank you. Having  
10 heard the conditions of approval for the four-lot  
11 subdivision and lot line change for the lands of  
12 Adamo, I'll move for that motion.

13 MR. PROFACI: So moved.

14 MR. MENNERICH: Second.

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

18 (No response.)

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

21 MR. GALLI: Aye.

22 MR. BROWNE: Aye.

23 MR. MENNERICH: Aye.

24 MR. O'DONNELL: Aye.

25 MR. PROFACI: Aye.

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CHAIRMAN EWASUTYN: Myself yes. So  
carried.  
Thank you for attending.  
(Time noted: 7:32 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: November 23, 2007

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

----- X

In the Matter of

SODANO SUBDIVISION  
(2007-25)

Forest Road  
Section 3; Block 1; Lot 33.1  
AR Zone

----- X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: November 15, 2007  
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  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHAL

----- X

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

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CHAIRMAN EWASUTYN: The following item of business this evening is the Sodano subdivision. It's a public hearing for a two-lot subdivision located on Forest Road in an AR Zone. It's being represented by Lawrence Marshal.

Mr. Mennerich will read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Sodano subdivision for a two-lot subdivision on premises Forest Road in the Town of Newburgh, designated on Town tax map as Section 3; Block 1; Lot 33.1. Said hearing will be held on the 15th day of November at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated October

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11, 2007."

CHAIRMAN EWASUTYN: Thank you.

Dina Haines, Planning Board Secretary.

MS. HAINES: The notice of hearing was published in The Sentinel on November 9th and in The Mid-Hudson Times on November 7th. The applicant's representative sent out six registered letters and five were returned. The publications and mailings are all in order.

CHAIRMAN EWASUTYN: Thank you.

Mr. Marshal, would you give your presentation please.

MR. MARSHAL: Sure. The proposed subdivision is a two-lot subdivision located on the easterly side of Forest Road in the AR Zoning District. The proposed subdivision will involve the creation of two buildings lots. The two building lots will be served by a single common driveway entrance off of Forest Road. The two lots are proposed to be 9 acres and -- approximately 9 acres and approximately 11.5 acres. They'll be served by individual wells and septic systems.

CHAIRMAN EWASUTYN: Thank you.

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Comments from the public, please.

MR. DELLANNO: Nick Dellanno. There's several maps. My line goes in the middle of the lane but I think on this one it's over about 500, 600 feet. My deed reads the center of the lane. The center. That's not in the center as far as I can see. How many feet -- could I ask you a question?

MR. MARSHAL: Sure. If the Board --

CHAIRMAN EWASUTYN: Go ahead.

MR. DELLANNO: How many feet is it from the stonewall fence to the center of the lane?

MR. MARSHAL: From the far stonewall fence?

MR. DELLANNO: The first one is 16 1/2 feet on top; right? 16 1/2 feet?

MR. MARSHAL: Without a scale I can't tell you exactly.

MR. DELLANNO: Does it say 16 1/2?

MR. MARSHAL: Well, there is a metes and bounds course distance that's 16 1/2 feet, yes.

MR. DELLANNO: Then you go down further. Can you tell if it's squeezed in up



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around 516?

MR. MARSHAL: The stonewall is not perfectly straight.

MR. DELLANNO: Right. But the lane should be straight I think. My deed reads and the deeds back to 1927, all those deeds in between all read from the center of the lane. That's not in the center of the lane.

UNIDENTIFIED SPEAKER: If I may --

CHAIRMAN EWASUTYN: Wait, wait. No, you may not. One person at a time speaks. Thank you.

MR. DELLANNO: I have deeds here reading from the center of the lane and that line isn't in the center of the lane.

MR. MARSHAL: The survey was completed by a licensed land surveyor. Unfortunately he is not here tonight -- this evening. I believe that he spoke to you in our office. He has placed his seal on the map certifying the location of the out bounds of the property.

CHAIRMAN EWASUTYN: Mike Donnelly.

MR. DONNELLY: If we have that survey -- it's not impossible and it's not unheard of to

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have two surveys that if the same surveyor read them together would determine that they overlap, but it is not the Planning Board's job to resolve that. We require a licensed surveyor present a plan and we rely upon that.

MR. DELLANNO: I have to commend him. He got some of my property back from the last approved survey which was '05. The last approved survey took away my right-of-way and part of my land and part of the lane. I have the map here. Now he straightened it out. So I have to commend that part.

The only question I have is it's being squeezed up about 6 feet from the center of the lane. In other words, these deeds read center of the lane . All the way back to 1927 and all the deeds in between read center of the lane.

The next property, which was my aunt's, her deed also reads center of the lane. Lot line center of the lane. Now I don't see it that way.

CHAIRMAN EWASUTYN: Do you understand what Mike Donnelly has just said as far as a licensed surveyor?

MR. DELLANNO: Right.

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CHAIRMAN EWASUTYN: And his license, I think Mike, you're saying is on the line if he certifies this to be the truth.

MR. DELLANNO: Okay. All right. And this survey in '05 was a licensed surveyor also.

CHAIRMAN EWASUTYN: Right.

MR. DELLANNO: He has something different.

CHAIRMAN EWASUTYN: Right.

MR. DELLANNO: I don't know if you want to see that.

CHAIRMAN EWASUTYN: Unless you --

MR. DELLANNO: There's two different maps here.

CHAIRMAN EWASUTYN: Mike, do you want to --

MR. DONNELLY: We don't decide survey disputes. If they can't be decided between the parties the court will have to resolve them. We can't. If we're presented with a licensed survey, that's our requirement, and we rely upon it.

MR. DELLANNO: You'll be able to approve it the way it is then?

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MR. DONNELLY: If everything about the plan conforms and there are no outstanding issues; yes, the Board would be in a position to take action.

MR. DELLANNO: So I have nothing more that I can say in my discussion about that then?

MR. DONNELLY: Nothing that -- you're permitted to say anything you would like but if you have a survey that says something different, then you may need to address that with this land owner. We can't resolve that dispute.

MR. DELLANNO: I can't go back to the '05 survey? I can't go back to that then?

MR. DONNELLY: I can't tell you why they're different. I can't tell you if they're the same surveyor who recognized an error and cured it. What's before the Board this evening is a survey certified by a licensed surveyor with a seal on it that indicates this is the proper description of the property bounds, and we don't look behind those, we rely upon them.

MR. DELLANNO: Then I can't say anything else.

CHAIRMAN EWASUTYN: This gentleman, you

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had something to say. If you would give your name and your address, please.

MR. FASSE: My name is Harold Fasse, I live in Wallkill, New York. I'm title examiner of Orange County. I've been doing that for thirty years. Nick is a friend of mine. He showed me the deeds and I looked them up and I looked at the property lines and the maps and survey. I think his main concern was that there is a right-of-way for him along the northerly part of that boundary line that's not shown on the subdivision.

MR. MARSHAL: That's incorrect.

MR. FASSE: What's incorrect?

MR. MARSHAL: It says existing road right-of-way in favor of others reserved in liber 832 of deeds page 187.

MR. FASSE: This is true but it's not really delineated as far as going to his property.

MR. MARSHAL: The deed does not delineate it.

MR. FASSE: It does go through this lot here. I think if we can just delineate that on

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the map.

MR. DONNELLY: That does present an issue we talked about earlier that we need to hear more about because if that is true then the approval of the subdivision would place three lots on this common driveway.

MR. FASSE: The deed is over -- the common driveway that they're putting on is south of the right-of-way.

MR. DONNELLY: It's a separate location.

MR. HINES: It is separate.

MR. FASSE: The original deed does not provide any bounds, it just says generally over. It says it's on equal sides of the boundary line. It doesn't say how wide it is but it does say it's an equal distance on both sides. All we would like is for it to be delineated on the map.

MR. MARSHAL: But there's nobody to say what that equal distance is.

MR. FASSE: The road is there now. We can use that road.

MR. MARSHAL: But that's not accurate to what was -- what is in that deed.

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MR. FASSE: Then we should resolve it.

MR. DONNELLY: We generally wouldn't require an applicant, unless there was a metes and bounds description, to lay it out with particularity. Now that I look at this I do see that there's a stonewall. If that's what this indicates, that separates the one --

MR. FASSE: Correct.

MR. DONNELLY: -- way from the other. I think that it's important that we reference the easement so that everybody is aware of it. I know that we need to have a surveyor on this plan.

MR. FASSE: Our concern was the developer threatened to take down a wall and remove the right-of-way arbitrarily.

MR. DONNELLY: That would be a private issue as between you and that developer. The state of the record is what it is in Goshen, and you have been there so you know what it says.

MR. FASSE: Right.

MR. DONNELLY: This map clearly shows, and I didn't notice it at first but it clearly shows two separate access ways here. So there

1  
2 isn't an issue about too many houses on a common  
3 driveway. Under the law someone that has land  
4 that's encumbered by an easement has certain  
5 obligations, mostly not to interfere with the use  
6 of that easement. That would not prohibit them  
7 in and of itself from removing the rock walls, or  
8 the Planning Board may have a planning issue  
9 about preserving the rock walls. There's lots of  
10 things an applicant can do with land encumbered  
11 by a right-of-way easement to that land as long  
12 as he doesn't interfere with the right to use it.

13 MR. FASSE: We understand and we just  
14 want to make sure that's what happens.

15 MR. HINES: When you say they can't  
16 interfere with that, the proposed grading for the  
17 driveway serving lots 2 and 3 will, it looks to  
18 me, make the existing roadway inaccessible.

19 MR. DONNELLY: That's an issue.

20 MR. HINES: That's why I was under the  
21 impression that there was going to be three lots  
22 sharing the same driveway when I looked at that  
23 grading issue.

24 MR. FASSE: That's a problem because  
25 heavy equipment goes down the gravel driveway.



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If he's planning on paving the common driveway --

MR. HINES: He's not. I'm looking at the grading here and it's impacting what appears to be the existing driveway to Mr. Dellanno's property.

MR. DONNELLY: Can he utilize that section, though?

MR. HINES: To drive on? Not based on that proposed grading.

MR. MARSHAL: That problem became aware to us this morning. We were reviewing the plans and we wanted to -- we want to obviously fix that. That was an oversight on our part, disturbing that lane. We have no intention of disturbing it. We just have to modify the proposed grading along it. That's something that we can correct.

CHAIRMAN EWASUTYN: Okay. Let's continue on with other discussion. Thank you. Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Pat Hines, do you want to bring us through your review so far?

MR. HINES: We've reviewed the project

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with regard to the water and sewer systems that are proposed and found them to be appropriately designed.

The project does not meet the threshold for a stormwater management report. We will note that the drainage from any of the improvements will discharge to the rear of the property towards a large DEC regulated wetland area.

We have no further comments on that with the exception of the grading we just discussed and Mr. Marshal acknowledged.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: We reviewed this two-lot subdivision. We have no further issues with it.

The applicant added a note on the plans stating there would be no further subdivision of these two lots in the back due to steep slopes and location of wetlands.

We received comments -- a comment letter back from the Orange County Planning Department and the Orange County Department of Public Works along with the DEC. We have no further issues.

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2 CHAIRMAN EWASUTYN: Comments from Board  
3 Members. Frank Galli?  
4 MR. GALLI: No.  
5 MR. BROWNE: I'm confused. I would  
6 like to get a better clarification with this road  
7 issue. Originally we were talking about at work  
8 session possibly three driveways and now that's  
9 no longer an issue; correct?  
10 MR. DONNELLY: What the map shows, if  
11 you look closely, is there is the proposed common  
12 driveway for this subdivision.  
13 MR. BROWNE: Okay.  
14 MR. DONNELLY: Immediately next to it  
15 and north of it is an easement right for others  
16 to obtain access, but they are separate -- you  
17 know, separate slots of land to allow that to  
18 happen.  
19 MR. HINES: There's an existing  
20 stonewall.  
21 MR. DONNELLY: Pat pointed out and the  
22 applicant agreed to fix, the grading that is  
23 proposed for the new common driveway is shown in  
24 a fashion that would make use of the other access  
25 way impossible. The applicant has agreed to fix

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that. I don't know whether you want to make that a condition that Pat says has been adjusted or to have the applicant return to you.

MR. BROWNE: And then the issue on the neighbor's use and positioning of the road and so on, where is that standing?

MR. DONNELLY: The easement is referenced on the map by liber and page so its terms are clear and would put any purchaser on notice of their existence. The gentleman from the audience asked that a metes and bounds actual area of the easement be shown, or at least depicted visually on the map. That would require the judgment of someone to go out there and assume what is equally distant from a center portion. I don't know there's any reason why this applicant should have to do that. The easement is what it is. It's on file in the clerk's office.

MR. BROWNE: So to address his concern, essentially that is a civil matter and for his protection he should find himself a good lawyer and --

MR. DONNELLY: If there's an issue. I

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don't know that he has an issue. He has a fear that unless there's sufficient specificity that this owner or the purchasers will extinguish his rights. In that case it would become a private right. He clearly has an easement.

MR. BROWNE: From our perspective as a Planning Board there is no issue for us as a Board?

MR. DONNELLY: Once we make sure we haven't approved something that destroys that right, I think we are done.

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: And the condition would be that Pat Hines review the revised plans that show the grading?

MR. DONNELLY: The plans will not be signed until Pat has given you a letter saying he reviewed the revised plans and the grading issue that interfered with the right of the easement holder has been resolved.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Ed O'Donnell?

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MR. O'DONNELL: No comment.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No thank you, John.

CHAIRMAN EWASUTYN: Additional comments  
from the public?

Sir, if you would give your name and  
address.

MR. GIARRIZZO: My name is Charles  
Giarrizzo, I'm at 58 Forest Road right next to  
the proposed development. My only concern is the  
wells and septic system. My daughter had to go  
down like 450 feet and have the well cracked and  
crazed or whatever they call it. She's only  
getting a gallon-and-a-half a minute. Now we're  
going to put two more wells in. What kind of  
impact is that going to have on my well, next  
door's well, my daughter's well? Has anything  
been --

MR. DONNELLY: Everyone has the right  
to draw water from the ground for reasonable  
domestic use, and if in so doing they interfere  
with someone else's right to the extent that they  
have to drill a new well or drill deeper, than  
that's just how the cookie crumbles is how the

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law looks at it. If someone is going to come in and create a water supply for a large subdivision and drill a well that was going to supply a large area, then the State, through the land use process, ensures that appropriate testing is done. Every person who owns land has the right to draw groundwater sufficient to meet normal domestic needs.

I don't know that there's anything in this area that is notorious for these difficulties. In larger subdivisions the County requires that test wells be drilled to make sure that there is adequate water. This is only a four-lot subdivision and that doesn't kick in -- two. Two-lot subdivision.

MR. GIARRIZZO: The reason I'm asking is Forest Road is a notorious area for this problem. There have been several -- at least six wells that were driven that I know of that had this problem. The situation where this property is located, it's on a ridge. The wells are going to have to go very deep.

MR. DONNELLY: In another town I represent we have some areas like that and the

1  
2 solution from the municipality's point of view is  
3 really to require that wells be drilled to a  
4 specified depth. The problem is not that you  
5 generally can't reach water but that, if as well  
6 drillers frequently do, they go to the spot where  
7 they first hit water and then drill a short  
8 additional distance, then when somebody else  
9 drills a well and begins to draw down the first  
10 well runs dry and has to drill deeper again.  
11 It's not to restrict development because everyone  
12 has the right to draw water. The solution is to  
13 require that all wells be drilled a certain depth  
14 below when a certain gallons per minute is met.  
15 This Town hasn't enacted any ordinance like that  
16 and that's why I said I don't know of this being  
17 the kind of notorious area where the Town Board  
18 would want to get involved and enact a law that  
19 requires deep well drilling to ensure that we're  
20 not always playing leap frog with taking turns  
21 drilling wells deeper.

22 MR. GIARRIZZO: In your experience in  
23 Forest Road, we've had quite a few developments  
24 go in, Tara Estates, has there been a problem you  
25 know of of this nature?



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MR. DONNELLY: I would ask Pat.

MR. HINES: I'm not aware of that. I don't know if you were present when I gave the answer at the last public hearing.

MR. GIARRIZZO: I was sitting here. It's a generic answer.

CHAIRMAN EWASUTYN: Tara Estates was put in approximately ten years ago by Harry Service. Best of my knowledge, and I'm just speaking openly, I know of no history.

MR. GIARRIZZO: Right. Tara Estates, I'm just giving that as an example of the water usage in the area.

CHAIRMAN EWASUTYN: Forest Road, if you recall, was an area in the Town of Newburgh in the late '80s that was a hot spot for development.

MR. GIARRIZZO: Mm'hm'.

CHAIRMAN EWASUTYN: I think the majority of the subdivisions which run on both the east and west side of that road, it was a prolific area for subdivisions.

MR. GIARRIZZO: I'm aware of that. We had the property since 1946.

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CHAIRMAN EWASUTYN: You know, having worked throughout that area I can't say I've heard, or being on the Board for as many years as I have, have I heard the public come back and comment the way you're discussing now as far as a problem with wells.

MR. GIARRIZZO: I'm only going by what the professionals told me, the well drillers, that Forest Road is notoriously known for this problem. If that's the case what kind of impact? I know you can't predict the future but I think it should be a consideration.

MR. HINES: Again as I said earlier, the zoning takes that into account. I will note that there's a very large DEC regulated wetland on this property, which as everyone knows we preserve those wetlands for the aquifer recharge benefits. They're most likely a surface representation of the groundwater table in that area. These homes are located on the opposite side of the ridge from Forest Road and a little bit down gradient.

MR. GIARRIZZO: For your information, those wetlands last year when we had our drought

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practically dried up.

MR. HINES: On the surface I would believe that could happen. That doesn't mean the groundwater did. That's the reason they are protected is to provide that valuable aquifer recharge. These lots are an average of 10 acres in size. It's not something I would envision being a problem.

I will note that 450 feet deep sounds like a deep well but conventional well technology can drill to 800 feet.

MR. GIARRIZZO: My well is 180 and I have plenty of water.

MR. HINES: You can move 100 feet away and have the same result.

MR. GIARRIZZO: I understand. I just needed to address my concerns. It's on the record and we're aware of what the situation is. Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Any additional comments from our consultants or Board Members?

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MR. GALLI: None.

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing for the two-lot subdivision for the lands of Sodano.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

At this time I'll ask for the assistance of our Attorney, Mike Donnelly, for conditions of approval for the two-lot subdivision for the lands of Sodano.

MR. DONNELLY: There was one other

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issue we spoke about in the work session and that was, Bryant, the need for there to be an easement of one of those driveways across another if I'm not mistaken.

MR. HINES: Yes.

MR. DONNELLY: We will therefore need the common driveway easement and maintenance agreement. That has already been given to me but in addition there's one driveway crossing another if I remember correctly. That will require an adjustment to that common driveway easement and maintenance agreement. The map note limiting further subdivision due to steep slopes and wetland areas will be made a condition of this approval. We'll need a sign-off letter from Pat Hines that reports that the revised -- there has been revised grading to the driveway area shown. That removes the interference with the rights of easement holders. There will be a requirement of the payment of parkland fees under the Ordinance.

MR. COCKS: Mike, I think that's the next one, the easement is crossing.

MR. DONNELLY: It's the next application. Okay.

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MR. COCKS: This is just a regular  
common driveway and maintenance agreement.

MR. MARSHAL: From us we just need to  
fix the grading --

MR. DONNELLY: That's correct.

MR. MARSHAL: -- and the payment of  
fees?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Having heard the  
conditions of approval presented from our  
Attorney, Mike Donnelly, for the two-lot  
subdivision for the lands of Sodano, I'll move  
for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Frank Galli. I have a second by Ken Mennerich.  
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. BROWNE: Aye.

MR. MENNERICH: Aye.

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MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mr. Dellanno, I hope you are satisfied somewhat.

MR. DELLANNO: Satisfied with the fact I have to get an attorney, is that what you mean? I have to get an attorney. That's what you're suggesting; right?

CHAIRMAN EWASUTYN: I'm not suggesting anything. I'm just -- I'm not suggesting anything.

MR. DELLANNO: My property line has been moved over 16 -- not 16, 6 feet at one end and goes all the way up almost 1,200 feet. I have different courses. This course is going along with my deed plus the deeds prior, 1927, and they're going by a different course on this particular map. They're taking a different course at the point of the center of the lane. This course, the old deed reads in the center of the lane, then they switch to a different which brings it over about 6 feet. Two different

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courses.

CHAIRMAN EWASUTYN: I hope you have the best solution for it.

MR. DELLANNO: The old maps are no good. The one that was just approved in `05, you just approved one in `05, has the lane in the center and has the course that I agree with. So that's not existing now; right?

CHAIRMAN EWASUTYN: From what I understand our attorney to say, what we were acting on tonight was the maps before us.

MR. DELLANNO: All right.

CHAIRMAN EWASUTYN: Is that not correct?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Thank you.

MR. DELLANNO: To get this corrected that means get an attorney; right?

MR. DONNELLY: If there's an error. I can't tell you. I haven't compared them. I don't know. If there's a dispute as to where the property line is, the courts are where that's resolved, not before the Planning Board.

MR. DELLANNO: Thank you.



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(Time noted: 8:01 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.

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DATED: November 23, 2007

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

----- X

In the Matter of

G&G PROPERTIES  
(2007-24)

Zeus Court off Pressler Road  
Section 6; Block 1; Lot 17.41  
AR & RR Zones

----- X

FOUR-LOT SUBDIVISION

Date: November 15, 2007  
Time: 8:02 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- FRANK S. GALLI
- CLIFFORD C. BROWNE
- KENNETH MENNERICH
- EDWARD T. O'DONNELL, JR.
- JOSEPH E. PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT
- KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHAL

----- X

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

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CHAIRMAN EWASUTYN: The next item of business we have before us this evening is G&G Properties. It's a four-lot subdivision located on Zeus Court off of Pressler Road, it's zoned AR and RR. It's being represented by Lawrence Marshal.

Lawrence, this is an update. This was before us about a month ago. We asked you to revise your maps and I believe you revised your maps.

MR. MARSHAL: Yes.

CHAIRMAN EWASUTYN: Would you bring us along on that, please?

MR. MARSHAL: At the last meeting -- well, to bring you back a little bit further, it was requested by one of your consultants for us to place a note on the map stating no further subdivision of any of the lots based upon the limited access. The applicant did not wish to place that on the map and the Board had requested that we make provisions, improve the private lane to allow for additional frontage to provide for the potential for future subdivision. We spoke to the applicant. Due to the increased cost of

1  
2 actually building the additional road the  
3 applicant has requested that we make provisions  
4 with road reservation to portions of the lots to  
5 allow that private road to be extended at such a  
6 time that they would wish to further subdivide.  
7 They do not have any plans for further  
8 subdividing in the future so they do not wish to  
9 bear the cost of that at this time. They are as  
10 required by the previous subdivision of this lot  
11 -- of this parcel, they are required to improve  
12 Zeus Court to current private road standards, and  
13 that will be completed for the subdivision of  
14 these four lots.

15 What we have shown is the existing  
16 private lane to be improved to current private  
17 road standards. Right now it's just a gravel --  
18 nothing more than a gravel driveway but it will  
19 be improved with pavement. We have shown a road  
20 reservation parcel to allow for the potential for  
21 future subdivision and road extension.

22 CHAIRMAN EWASUTYN: Take a deep breath.  
23 Relax.

24 MR. MARSHAL: Thanks.  
25 CHAIRMAN EWASUTYN: Pat Hines, do you

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want to give us your review?

MR. HINES: As Mr. Marshal stated, the Board had asked him to take a look at extending the private roadway to provide for any future subdivision should that occur. In response to that they've provided the easement, however not the actual construction of the roadway. It accomplishes the same thing without requiring the construction. Should the owner of one or either of the two large lots in the future wish to extend the private road then subdivide that, one or both of those lots, they would have the ability to do that. I think it accomplishes what the Board was looking for without requiring extension of the road at this time.

We talked at work session about the condition of Zeus Court. I do recall the detail on the detail sheet that that will be reconstructed to the current Town of Newburgh private road specifications, which I think addresses the comments we heard at work session regarding the potential for emergency vehicle access to be restricted because of the existing condition. So that's been -- the rest I believe

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-- our other comments have all been addressed.  
The wells and septic systems meet the requirements.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The last time they were in I made the comment that we wanted to see you guys either reuse or preserve stone walls on the site. I don't know if that was ever addressed on the plans or in the resubmission package. If you guys can either add a note on there saying you can reuse them or preserve them.

MR. MARSHAL: Sure. We'll add a note to that effect.

MR. COCKS: Okay. The only other issue was regarding the extension of the private road which Pat just discussed.

All lots currently meet zoning and we have no further issues.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No.

MR. BROWNE: No. The only question was Pat's comment about extending the road later if

1  
2 there's a subdivision. Is there a note that  
3 that's a requirement that if either lot is  
4 subdivided or -- I know from what you said it's  
5 allowed but is it required if subdivision occurs  
6 in the future? I would be looking for a  
7 requirement versus allowed to.

8 MR. MARSHAL: That this improvement be  
9 required if further subdivided?

10 MR. BROWNE: Yes. Rather than just  
11 allowed.

12 MR. MARSHAL: It says lots shall have  
13 the right to extend the private road for the  
14 further subdivision of lots. It doesn't say  
15 required. Certainly we can add that.

16 MR. BROWNE: I think that would be  
17 appropriate. If we've taken that much to do it I  
18 think it should be required.

19 MR. MARSHAL: Any further subdivision  
20 of these two lots --

21 MR. DONNELLY: Will require the  
22 extension of the private road.

23 MR. HINES: The only other way it could  
24 be done is if they went for the waiver. I think  
25 putting it on the map now would further

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accomplish what you wanted it to do.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I was pleased to hear Zeus Court would be upgraded to current specifications for private roads. It certainly needs it.

MR. MARSHAL: Yeah.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: As far as I'm concerned the only issue was the road. I guess it's going to be okay.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm good, John.

CHAIRMAN EWASUTYN: Having received the improvements that were necessary both on the revised plans and the improvements to the private road, I'll move to declare a negative declaration for the four-lot subdivision for G&G Properties and set the 6th of December for a public hearing.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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



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(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Nay.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. If you would please contact Dina Haines as far as the mailing for the public hearing.

MR. GALLI: John, did you give the date?

CHAIRMAN EWASUTYN: The 6th of December.

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

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

I, Michelle Conero, a 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: November 23, 2007

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

----- X

In the Matter of

200 STONY BROOK ASSOCIATES  
(2007-16)

200 Stony Brook Court  
Section 97; Block 1; Lot 49  
B Zone

----- X

ARCHITECTURAL REVIEW BOARD  
SITE PLAN

Date: November 15, 2007  
Time: 8:08 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: WILLIAM PENDERGAST

----- X

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

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CHAIRMAN EWASUTYN: The next item is 200 Stony Brook Associates. It's located on Stony Brook Court in a B Zone. It's being represented by Mr. Pendergast. The action before us tonight is ARB and site plan.

MR. PENDERGAST: Yes. Thank you for taking me on my normal course here. We're here tonight for final site plan I guess, and for architectural review. We managed to get through the Zoning Board for our two-inch variance so we're back to complete this.

What I have tonight is the architectural review. Originally when we came in several months ago we proposed putting an addition on the front for a vestibule and also to the left-hand side along Route 17K for the addition in the back of the building. Basically it was an existing bank building here and we put an addition to the back and the vestibule to the front. These were the original renderings we showed at that time. Since then we've kind of tweaked the building a little bit. The entrance changed a little bit because the needs of the doctor changed a little. We brought the building

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back in and we dressed it up a little differently. Again, it's pretty much in the same kind of vernacular we had before.

We added a little color to the building instead of being kind of stark white and brick.

There were some comments at one of the architectural reviews about the metal roof.

We've switched all the roofs to like a slate blend shingle. We're keeping the existing brick on the building. We're adding some new brick to match the existing and we've added a little bit of color to some of the trim work around the windows.

Again, the main change here was the entrance. It originally was from two sides coming from left and right and now the entrances are centered.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: What kind of doctor's office is this going to be again?

MR. PENDERGAST: He's a plastic surgeon and ENT. Currently his practice is in Stony Brook Court. It's 1200 Stony Brook.

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MR. GALLI: It just seems like a lot of office for a small building.

MR. PENDERGAST: Basically they're treatment rooms. It kind of works in two ways. There's the plastic surgery which he has a couple treatment rooms for but they do other kinds of therapy and things. There's the ENT practice he has as well and it kind of divides itself, so you have hearing rooms and audiology and allergy that are related to that.

CHAIRMAN EWASUTYN: Any additional comments, Frank?

MR. GALLI: No. I'm good.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: With the brick you're going to try to match the existing brick?

MR. PENDERGAST: Yeah. We actually can. We're going to salvage some of the brick that's there and we can match the brick that's on the building.

MR. BROWNE: I guess putting an addition on, I don't want it to look like new brick, a new addition.

MR. PENDERGAST: Actually the only

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brick we're really adding is at the base of the piece in the front. The side elevations here, this faces 17, that's all stucco. Like a synthetic stucco material. We're not actually going to try to add brick there because it's too much and it wouldn't match.

MR. BROWNE: Thank you.

MR. PENDERGAST: A very limited amount of brick.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I like the front elevation.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: I was just having a brief conversation with the Chairman and we were wondering where the vault is because he needs a place to put all his money.

MR. PENDERGAST: If you would like it you can get it out of the building. We would be happy to donate it. It will save us about \$20,000 if you would like to take it out. We'll even open the walls for you so you can get it out.

CHAIRMAN EWASUTYN: Joe Profaci?

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MR. PROFACI: You have two main entries into the building. Is that because of the two different practices or --

MR. PENDERGAST: Basically what you have is we sort of split -- originally there was an entrance from each side and it came into one common lobby. As his practice has kind of developed, it is what it is and some days he's doing plastics and the other days he's doing the ENT. Really the plastic side is a little more say upscale and the ENT is more the general practice. You come in through a different door and the same receptionist can actually work both sides of the counter. It really divides the patients up.

MR. PROFACI: And what is the -- you may have said this. What is the finished material for the back addition?

MR. PENDERGAST: This piece in the back here would be like a stucco. You know, what they call efface. It's a synthetic.

MR. PROFACI: The same color as the front?

MR. PENDERGAST: It will be the same



1  
2 color as the front. Unfortunately Xeroxes don't  
3 work with markers. Kind of a tone kind of cream  
4 buff color.

5 MR. PROFACI: The bottom part?

6 MR. PENDERGAST: This here is brick.  
7 This piece down in here would probably be just a  
8 little bit darker to give it a base. It will be  
9 this same color or it could be this color but  
10 toned to a little darker color. I wouldn't try  
11 to match the brick. It's all lawn area there.  
12 There's no parking. It will stay clean.

13 MR. PROFACI: Thank you.

14 CHAIRMAN EWASUTYN: Karen, do you have  
15 anything to add to the ARB on this?

16 MS. ARENT: No. Only that they are  
17 showing landscaping on the ARB and there is no  
18 landscaping shown on the site plan.

19 MR. PENDERGAST: We can address those  
20 comments. I think I sent you a memo about that  
21 as well.

22 MS. ARENT: I did have one question  
23 about the sign that you showed. How is it going  
24 to be lighted?

25 MR. PENDERGAST: We'll use a ground

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mount fixture with shields that will light up from below. There's currently lighting on the signs there now. They took a sonotube and put a fixture on it. We won't do that. We'll submit a ground light fixture that you can look at as well.

MS. ARENT: Great. Thank you.

CHAIRMAN EWASUTYN: Bryant Cocks, do you have any comments on the ARB?

MR. COCKS: In the detail sheet in back you're going to have to put the trash enclosure.

MR. PENDERGAST: We had brought this up at one of the other meetings.

CHAIRMAN EWASUTYN: They didn't claim to have one. I wanted to hear it again. Is that what you said?

MR. PENDERGAST: We don't have any intention of having a dumpster. Basically it will probably be no more than like two cans a week that the doctor goes through. He has medical waste that he has to keep inside the building that gets taken out differently. It is separated. We put a pad just so he can put the cans. They would be the wheeled type of can.

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Like the large wheeled cans. If we need to screen it we would be happy to.

MR. COCKS: I was going to say if they're going to leave garbage cans outside they should have a fence around it instead of leaving two garbage cans --

MR. PENDERGAST: They're really tucked behind the building. It's two wheeled off cans.

CHAIRMAN EWASUTYN: What would the Board like to see?

MR. PENDERGAST: We can put a few bushes in front of it to screen it.

CHAIRMAN EWASUTYN: Can I hear from the Board Members?

MR. PENDERGAST: Sure.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Just put some plantings around it. He can hide them behind the corner someplace.

MR. BROWNE: I don't have anything.

MR. MENNERICH: What Frank mentioned is fine.

CHAIRMAN EWASUTYN: Ed?

MR. O'DONNELL: What's behind the back

1  
2 of the building?  
3 MR. PENDERGAST: A rock wall that goes  
4 up about 40 feet.  
5 MR. GALLI: Then the bus garage.  
6 MR. PENDERGAST: Yeah.  
7 CHAIRMAN EWASUTYN: Joe?  
8 MR. PROFACI: If you want to put a few  
9 bushes around it, that would be appreciated.  
10 CHAIRMAN EWASUTYN: So we'll have a  
11 vegetative screening around the pad.  
12 MR. PENDERGAST: Not a problem.  
13 CHAIRMAN EWASUTYN: Bryant, anything  
14 else?  
15 MR. COCKS: On ARB, no. I do have a  
16 couple on the site plan.  
17 CHAIRMAN EWASUTYN: Pat Hines, do you  
18 have anything to add to ARB?  
19 MR. HINES: No.  
20 CHAIRMAN EWASUTYN: Ken Wersted?  
21 MR. WERSTED: No.  
22 CHAIRMAN EWASUTYN: Mike, any  
23 conditions that we'll place on the approval for  
24 the ARB?  
25 MR. DONNELLY: It would be the standard

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one, they have to build as shown and Karen's inspection.

CHAIRMAN EWASUTYN: Having heard the conditions that Mike Donnelly has said, that Karen will do a final inspection of the plans before they're submitted to the building department, I'll move for a motion to approve the ARB for 200 Stony Brook Court.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Do you want to walk us through the site

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plan?

MR. PENDERGAST: Thank you very much.

CHAIRMAN EWASUTYN: You're welcome.

MR. PENDERGAST: Really nothing has changed since the last time we were here. Again, the existing building is a one-story brick building. We have an addition at the front. We have the addition at the back which is following the setbacks as prescribed.

We've altered the parking lot to have traffic that comes in both entrances. We've added some one-way parking in the front. Originally it was facing towards the building but there were some comments from the traffic engineer about exiting here so we flipped the parking to the outside which allowed us then to get a better radius out of here and a little more cue space.

Originally the paving went completely around the building. We've now stopped the paving here and taken out all the paving that went around where the drive-through was originally. So we decreased the amount of impervious coverage.

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Again, it's a one-story addition in the front for the entrance and a one-story addition in the back.

We're going to re-stripe the lot, re-curb the lot, repave the lot.

We'll add landscaping as we will discuss.

The existing lighting fixtures are the period lighting fixtures that are there currently. We're going to maintain those. That's pretty much it.

CHAIRMAN EWASUTYN: Bryant Cocks, you had said earlier you had some questions on the site plan.

MR. COCKS: Yeah. If you could just show stop signs at both exit points.

MR. PENDERGAST: We will do that.

MR. COCKS: Also leading up to where the handicap spaces are, you're going to need to have a sidewalk on that side continued up the side.

MR. PENDERGAST: Well, the thing with that was, and Tom Olley had said that this is really no different than any curbed island where

1  
2 you would have parking for handicapped next to a  
3 curbed island. In order to do that we're going  
4 to have to remove some of the landscaping.  
5 That's going to encroach on the building. So I  
6 prefer to leave the landscaping. This is really  
7 no different than any other parking space for  
8 handicap you have next to a curbed island in a  
9 parking lot. If you wanted the sidewalk we'll  
10 just lose some of the landscaping along the front  
11 of the building.

12 MR. COCKS: I was just thinking if  
13 someone is trying to get out of the back driver's  
14 side and they have a wheelchair, I don't think  
15 they'll be able to get out there. I don't want  
16 to lose the landscaping but --

17 MR. PENDERGAST: Typically anybody that  
18 has a wheelchair, usually they have a lift.  
19 They're usually getting out on this lane in here  
20 because they usually have, you know, a van  
21 accessible. They usually get out on the  
22 passenger side. Anybody who is mobile enough  
23 probably can get out, get around the car and get  
24 to wherever they need to. Again, we're happy to  
25 put the sidewalk in but we were trying to



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2 maintain the landscaping up against the building.  
3 CHAIRMAN EWASUTYN: Board Members, if  
4 you would take an opportunity to turn to sheet 2  
5 to see what your recommendations are, if you want  
6 to leave the existing vegetation in place and  
7 allow for the person who is mobility impaired to  
8 use the proposed new sidewalk and handicap ramp.  
9 Jerry's not here. Pat, is there  
10 anything in the Code that would require that  
11 there be the convenience of a sidewalk?  
12 MR. HINES: No. There has to be a  
13 handicap space within a certain distance of the  
14 door. It doesn't necessarily require a sidewalk.  
15 MR. GALLI: I would rather see the  
16 landscaping. Keep the ramp where it is and just  
17 do that.  
18 CHAIRMAN EWASUTYN: Cliff Browne?  
19 MR. BROWNE: I agree.  
20 CHAIRMAN EWASUTYN: Ken Mennerich?  
21 MR. MENNERICH: I agree, landscaping.  
22 CHAIRMAN EWASUTYN: Ed O'Donnell?  
23 MR. O'DONNELL: Landscaping.  
24 CHAIRMAN EWASUTYN: Joe Profaci?  
25 MR. PROFACI: The same.

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CHAIRMAN EWASUTYN: Okay. Other outstanding items, Bryant?

MR. COCKS: Yes. There was just a rectangular box on one of the site plans, the first entryway. I don't know if that was --

MR. PENDERGAST: It's the CAD drawing. It's actually a curved elevation mark. It came through as a box.

MR. COCKS: Just clean that up.

MR. PENDERGAST: We'll take care of that.

MR. COCKS: You guys are still only going to retain the one light that's in front?

MR. PENDERGAST: Currently there's a light fixture here, there's one here. That one, we're going to actually change that fixture to match the other ones and then we'll have -- there is decorative lighting on the building. There is another light fixture over here as well. There are several light fixtures here. We're going to maintain the existing period light fixtures that are currently there, and then there will be decorative lights on the building at the entrances and the doors.

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MR. COCKS: Do you know how tall those lights are? They weren't shown in the --

MR. PENDERGAST: The current fixtures that are there, if I had to guess they're 14 feet. They're like a Georgian fixture.

MR. COCKS: That's fine. I think that was it.

We received the sewer allocation letter from the City of Newburgh on October 9th.

We received the Orange County Planning Department sheet this week.

You guys sent the plans to the fire department?

MR. PENDERGAST: We did. On September 7th they were sent to -- plan sheet 2 of 4 was sent to Mike Decker, chief of the Goodwill Fire District. We've gotten no comments.

MR. COCKS: Okay.

MR. GALLI: I thought you got a comment back. We sent them one of our updates.

MR. PENDERGAST: The other thing to note is the building is going to be completely sprinklered because it's now required to be.

MR. GALLI: That's one of the comments

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they sent back to you, John. I'm pretty sure they cc'd us.

CHAIRMAN EWASUTYN: I don't have a note that I entered receiving it but --

MR. GALLI: Frank sent it to you. I remember reading it. I'll check.

CHAIRMAN EWASUTYN: Okay.

MR. COCKS: Just one other point of reference. This is an Unlisted action, with the addition of the foyer it's over 4,000 square feet, so a determination will have to be made.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines?

MR. HINES: We have no outstanding comments. They've added the curbing or resurfacing of the parking lots.

As noted at the work session, the flow allocation letter from the City of Newburgh has been received. Our comments have all been addressed.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: Landscaping should be shown in the front of the -- between the building and the sidewalk to be in keeping with other

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buildings in the complex as well as to match your architectural drawing.

The center of each of the Boxwoods should be shown at least four feet away from the curb. We try to give them room to grow and save them.

The Gold Post Junipers are shown in a lawn area. It would be better to put them in a bed.

MR. PENDERGAST: Not a problem.

MS. ARENT: The October Glory Maple is shown on bedrock on the hill in the back. If that could be moved into the lawn area. It's shown right on this hill near the corner of the site. Just move that over to the lawn area.

MR. PENDERGAST: Okay.

MS. ARENT: And continue just a little bit of planting around the first two regular parking spaces just to give a little more screening.

MR. PENDERGAST: In here?

MS. ARENT: Just a little bit.

MR. PENDERGAST: We'll do that.

MS. ARENT: If you could just show a

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little planting around the sign to dress it up.

MR. PENDERGAST: We'll do that. The other signs will be removed as well.

MS. ARENT: Tom Olley does have the regular standard planting notes we put on.

MR. PENDERGAST: We'll add those as well.

MS. ARENT: You're going to need a landscape bond estimate.

CHAIRMAN EWASUTYN: Okay. Additional comments from Board Members?

MR. GALLI: No additional.

MR. BROWNE: None.

MR. MENNERICH: None.

MR. O'DONNELL: Nothing.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to declare a negative declaration for 200 Stony Brook Associates for the site plan.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Joe Profaci.

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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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike Donnelly, Planning Board Attorney, can you give us conditions for approval for the 200 Stony Brook Associates site plan?

MR. DONNELLY: I don't know that you ever formally voted to waive the hearing. I assume that's what you want to do. You may want to include that as part of the resolution or include it separately.

CHAIRMAN EWASUTYN: I have a question mark next to that.

MR. DONNELLY: I don't see that you had done that.

CHAIRMAN EWASUTYN: Does the Planning

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Board want to have a public hearing on 200 Stony Brook Associates?

MR. GALLI: I don't feel it's necessary.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. O'DONNELL: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to waive the public hearing for the 200 Stony Brook Associates site plan.

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So



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carried.

Mike, will you give us the conditions of approval?

MR. DONNELLY: The resolution will refer to the granted variance issued on August 27, 2007. We'll need a sign-off letter from Karen reporting on the revision of the landscaping details and their transfer to the site plan as well as we might as well have Karen look at the vegetative screening added around the trash can storage area. We had the ARB condition earlier. There will be a landscape security and inspection fee required and a condition that prohibits the construction of any fixtures or structures not shown on the site plan.

CHAIRMAN EWASUTYN: Having heard the conditions of approval, I'll move for that motion.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

Thank you.

MR. PENDERGAST: Thank you very much.

(Time noted: 8:30 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: November 23, 2007

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

----- X  
In the Matter of

ALTMAN LIGHTING  
(2007-40)  
Route 17K  
Section 95; Block 1; Lot 58  
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 15, 2007  
Time: 8:30 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: REG WALTERS

----- X

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

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CHAIRMAN EWASUTYN: The following item of business this evening is Altman Lighting. It's a conceptual site plan located on Route 17K in an IB Zone. It's being represented by Reg Walters.

MR. WALTERS: Mr. Chairman, Board Members, this is our first opportunity to appear before the Board with this application, so if I could take the opportunity and it's acceptable to everyone, I'll just do a brief overview of the proposal.

CHAIRMAN EWASUTYN: Before you do an overview can you introduce us to your client, how many people are employed, what his history is, what he manufactures, --

MR. WALTERS: Absolutely.

CHAIRMAN EWASUTYN: -- that way we have a better understanding of what we're trying to do here?

MR. WALTERS: That was going to be my next statement.

CHAIRMAN EWASUTYN: I'm sorry I got there first.

MR. WALTERS: I'm here tonight with Mr.

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Bob Altman who is the applicant and will be the occupant of the first phase. I'll give Bob the floor for a little bit.

MR. ALTMAN: Ladies and gentlemen, thank you for letting us in on this session. My name is Robert Altman, A-L-T-M-A-N, I live at 1054 Oenoke, O-E-N-O-K-E, Ridge Road in New Canaan, Connecticut 06840. I'm the president and owner of Altman Lighting. We are a family run business. My parents started it way back in -- the roots go back into the late `20s. We incorporated in 1953. We have about 130 people. We have a great group of people. We manufacture a complete line of theatrical TV and film lighting equipment and high-end architectural lighting. We love what we do. We have a great group of people that we're looking to bring up here.

We're presently on the banks of the Hudson River in Yonkers, right on the Hudson River. I don't know if you know it but Yonkers is doing a major revitalization and they're putting big high rises up. We're talking with developers like Lou Kapelli and a couple mid-town

1  
2 high rise developers. We're going into joint  
3 venture on a deal for probably 600 to 800  
4 condominiums on the river, on the waterfront  
5 there.

6 We have a light manufacturing assembly  
7 facility. We've been there since 1969. Yonkers  
8 has finally woken up, it's in the empire zone and  
9 they're putting up these high rises. You can't  
10 stand in the way of progress so we're looking to  
11 move the company and Newburgh was the right place  
12 to come to. Some of my people, you know, come  
13 from up here. They come from northern  
14 Westchester, Walden, Montgomery. Some come from  
15 the Jersey shore, some come from south of us. It  
16 was the right place to come. I hear that the  
17 labor force is a good labor force up here, which  
18 I'm a little bit nervous about yet. We'll have  
19 to be hiring probably a lot of people. Maybe 40  
20 to 80 people.

21 I purchased a piece of property from  
22 Pristino's, had the closing in February. Reg  
23 here has helped us with the site plan. Basically  
24 he'll tell you about the site plan. We're  
25 putting the building in the back and would like

1  
2 to also put a beautiful office building in the  
3 front so when you drive by 17K you look in and  
4 see a beautiful office building also.  
5 I guess the timetable -- you know, it's  
6 not a matter of if, it's a matter of when. When  
7 is happening pretty quick in Yonkers. I would  
8 imagine it's anywhere from a year to maybe  
9 twenty-four months before we get the green light  
10 to, you know, pack up and move. So we're  
11 looking, you know, to expand the business.  
12 It's a clean operation. We are  
13 intimately involved now with LED technology and  
14 semiconductors and electronics. If somebody  
15 would have said years ago you would be putting  
16 computers in lights I would have said they were  
17 crazy, you know. We have a very talented group  
18 of people. We're always constantly developing.  
19 Actually, my whole crew is in Orlando, we have a  
20 trade show down there. We're all looking forward  
21 to moving up here and being a credit to the  
22 community and getting some help to try and get  
23 this project moving. The last thing we want to  
24 do is get in the way with the developers there.  
25 Reg has been great to pull this thing together.



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I have a catalog here. You're welcome to have it. I can bring it up. It's kind of what we do.

CHAIRMAN EWASUTYN: He has electricity in his house, no one else does.

MR. O'DONNELL: I have a vault, too.

MR. ALTMAN: We've got a great group of people and we're all looking forward to coming up here and --

CHAIRMAN EWASUTYN: I think you've done well. Your hours of operation?

MR. WALTERS: We're basically now 8:30 to 5:00. The office building goes in and we could stagger it a half hour before or later with the traffic.

I was a little concerned with the traffic, to figure that out. When you pull out of there and make a left to go east it's kind of a little rough getting out of there. There's going to be a number of issues we have to work out, you know.

That's what we do. You're welcome to come down. If anybody is driving past Yonkers on the riverfront, you don't need a formal

1  
2 invitation, just bang on the door and come on in.  
3 MR. O'DONNELL: What type of work  
4 environment do you have? Is it a clean room?  
5 MR. ALTMAN: We have C&C equipment.  
6 Taret presses, trumped laser cutters. Light  
7 manufacturing. Our dye casting work is done on  
8 the outside. Our spinning work is done on the  
9 outside. Electronics, we're going more towards,  
10 you know, pick and place and wave solder and  
11 bonding type of machinery to populated LEDs on  
12 copper clapboards. It is old school and it's new  
13 technology. We're a technology driven company.  
14 It's a clean operation. We have a powder spray  
15 system. There's no VOCs, which is volatile  
16 organic compounds. We're completely OSHA  
17 compliant. We have people that just take care of  
18 that.  
19 MR. O'DONNELL: Do you build the entire  
20 assembly from the beginning?  
21 MR. ALTMAN: Yes. Yes, we do. The  
22 sheet metal comes in. We don't have an operation  
23 like traditional big boxes where you've got  
24 distribution and three hundred trucks coming in.  
25 It might be a couple trucks in the morning, two

1  
2 or three trucks in the afternoon, you know.  
3 MR. O'DONNELL: How many people?  
4 MR. ALTMAN: About 130.  
5 MR. O'DONNELL: So you're bringing a  
6 pretty good group with you if you hire from 40 to  
7 80 here.  
8 MR. ALTMAN: Probably about half.  
9 MR. O'DONNELL: Is the office building  
10 that you refer to yours or do you intend that to  
11 be another tenant?  
12 MR. ALTMAN: Yes. I have a picture.  
13 MR. O'DONNELL: That can't be yes.  
14 MR. ALTMAN: It's another tenant.  
15 MR. O'DONNELL: Another tenant?  
16 MR. ALTMAN: Yeah. It made sense to  
17 utilize the property better. That you would see  
18 coming, you know, from the road. Our building,  
19 the west side of this building, would be on this  
20 side here. This is the west side over here.  
21 That would be the front.  
22 MR. O'DONNELL: That's what you see  
23 from 17K?  
24 MR. ALTMAN: Yeah, yeah.  
25 MR. HINES: You'd have to cut the trees

1  
2 to see it from 17K.  
3 MR. ALTMAN: It will be extensively  
4 landscaped. I'm big on that, you know.  
5 MR. O'DONNELL: We like that here, too.  
6 MR. ALTMAN: It will be the prettiest  
7 piece of property.  
8 MR. O'DONNELL: Do you like stonewalls?  
9 MR. ALTMAN: The property is pretty  
10 flat.  
11 MR. O'DONNELL: We didn't mean they  
12 were going to be there now. We expect that they  
13 might wind up there.  
14 MR. ALTMAN: Well, the entrance way has  
15 to -- you know, obviously we need to come up with  
16 a plan that you like. It will be, you know,  
17 sidewalks and stonewalls.  
18 MR. O'DONNELL: Would you put this  
19 facility in -- where is it you live? New Canaan?  
20 MR. ALTMAN: That's a residential  
21 community.  
22 MR. O'DONNELL: They must have some  
23 industry.  
24 MR. ALTMAN: Not much. It's a bedroom  
25 community. It's kind of a hike. Actually, my

1  
2 wife is packing up the house now a little bit at  
3 a time and we'll be looking to move up here  
4 ourselves.

5 MR. O'DONNELL: We've got a lot of  
6 houses on the market.

7 MR. HINES: That's why they're saving  
8 the house in the front.

9 MR. O'DONNELL: What do you intend to  
10 do with that house?

11 MR. ALTMAN: That will be knocked down.  
12 Obviously that will be knocked down. We'll use  
13 that for construction. Instead of a trailer you  
14 can use that as a construction office.

15 CHAIRMAN EWASUTYN: Is that why there  
16 was a truck with Connecticut plates in the rear  
17 the other day? Is someone using it as a field  
18 office?

19 MR. ALTMAN: My son is up there  
20 cleaning up a little bit. We cleaned it up a  
21 little bit.

22 MR. O'DONNELL: What kind of skills do  
23 these people require that you're going to hire?

24 MR. ALTMAN: From general assembly  
25 work. We probably have about 20 women and they

1  
2 work out very well with general assembly and  
3 light assembly work, putting light things  
4 together, lights and sockets. We have everybody  
5 from software people to operators, machine  
6 operators, C&C like I said, packing, spot  
7 welding.

8 MR. O'DONNELL: So this would wind up  
9 being your only facility?

10 MR. ALTMAN: The one in the back, yes.  
11 We're going to move lock, stock and barrel.

12 MR. O'DONNELL: Right.

13 MR. ALTMAN: Yup.

14 CHAIRMAN EWASUTYN: Comments from the  
15 Board Members. Frank Galli?

16 MR. GALLI: I was just curious on the  
17 height of the building from the front, the  
18 airplanes don't take off the top of it.

19 MR. ALTMAN: We have to come down a  
20 foot. I'll tell you, it's like a built in  
21 tourist attraction, those planes coming in. They  
22 come in right over you.

23 MR. O'DONNELL: Wait a few years, maybe  
24 it's not such an attraction. That's a  
25 consideration. I don't know how important

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vibration is to your process.

MR. ALTMAN: It's fine. The building is -- the way we're constructing it is extra heavy duty, extra insulation. Extra, you know, insulation all around on the sides. We've got some plans on the building, too.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Do you have a timeframe for the second phase, when you think that's likely to develop?

MR. ALTMAN: As soon as I get -- basically we're getting what we need from the developer to get out of where we are to build this building and then he has two years to give us the balance. So it probably would be maybe about a year after we build it, we finish the first building. They go hand in hand. The place has to be finished, you know. It will be -- I think it will be a nice addition to the community, and I think with the airport opening up you might get a Jet Blue or something in there that might take the offices, you know.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: What you're showing me so

1  
2 far I like.  
3 CHAIRMAN EWASUTYN: Ed O'Donnell?  
4 MR. O'DONNELL: I'll second that.  
5 CHAIRMAN EWASUTYN: Joe Profaci?  
6 MR. PROFACI: How is Gary Leonard  
7 doing?  
8 MR. ALTMAN: You know Gary.  
9 MR. PROFACI: He's a friend of mine.  
10 MR. ALTMAN: Gary Raymond? He's Gary  
11 Leonard the father and then --  
12 MR. PROFACI: Right.  
13 MR. ALTMAN: His son is my Godson.  
14 MR. PROFACI: You're going to be moving  
15 to Newburgh, too?  
16 MR. ALTMAN: He's right across the  
17 river but he's talking about --  
18 MR. PROFACI: He will be working here?  
19 MR. ALTMAN: Yeah. My whole crew is in  
20 Florida now. It's a little crazy trying to get  
21 ready for a trade show, you know.  
22 CHAIRMAN EWASUTYN: Comments from our  
23 consultants on what we've seen so far?  
24 MR. HINES: I have site plan comments.  
25 CHAIRMAN EWASUTYN: Just in general.



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CHAIRMAN EWASUTYN: Bryant? Not the site plan.

MR. COCKS: The buildings look nice. I mean I was just questioning it was labeled on the site plan as a one-story building and that then shows a two-story building up there. I don't know if that was just mislabeled on the plans or if --

MR. ALTMAN: Actually they're both two stories. The box is, I think, 32 feet. It's under the flight path. There's two stories of offices. There's a cafeteria in there to feed 100, 120 people. So we'll probably get a couple young guys out of the Culinary Institute to cook a nice turkey dinner for the holidays.

Actually there's a bowling alley in the basement downstairs. There's engineering in there. There's an engineering room and administrative, some executive offices.

MR. GALLI: Is that a realistic building you're showing us?

MR. ALTMAN: That's it.

MR. GALLI: I see open air space off to the left.

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MR. ALTMAN: There's some balconies in there, there's some open areas. This is a light.

MR. GALLI: A lot of people show us things and then six months later they come back and --

MR. ALTMAN: I made the changes already. This is it. This is it. Actually we have a model at work. I have blueprints of the factory layout, how it just flows for efficiency. Right now in like seven buildings we're in 100,000 square feet. We have a rental division. There's only about ten people in the rental division and that's going to stay down south because that services New York. The manufacturing we sell all over the world so it doesn't matter where we are. Newburgh is the right place.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: It looks really great. My only concern is there doesn't seem to be as much green space available on the site as received in the drawings. The site looks very tight and there seems to be not too much space for what we're seeing.

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MR. ALTMAN: They have a retention pond that's going to be green.

MS. ARENT: For example, it's really pretty seeing all that grass and all the trees but like there's no space for that. I would just ask you to see if what you're showing is true to what is going to be.

MR. ALTMAN: I was very sensitive, honestly, to make sure -- let's say in the office building, I know the requirements are 5 spaces per 1,000 for the first 20,000 feet -- for the first 20,000 square feet which is 100 car parking spaces, and then 4 spaces for every 1,000 foot over 20,000. Reg and I, you know, we worked on this and I said let's -- I would rather make the building smaller and make it at least 5 spaces -- make the first 5 spaces per 1,000 and at least 4 parking spaces over 20,000 because realistically 1,000 square feet is pretty big for three people. I was sensitive to the parking and certainly sensitive to whatever -- there's one way to do things and that's to do it right. Whatever we have to do to do it right, you're not going to have any problems with me. We'll do it right,

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whatever you want.

MS. ARENT: The renderings look beautiful.

MR. ALTMAN: Thank you. We'll come up with a nice landscaping plan too for the front. Beautiful entrance. I'm not talking about throwing a few bushes down. I actually have some pictures of my house with landscaping. You're welcome to take a look at it. I went bezerk with the landscaping.

CHAIRMAN EWASUTYN: Ken Wersted, comments on the buildings for now? We'll introduce Reg Walters to go through the site plan. Do you have any comments on that right now?

MR. WERSTED: Nothing specific on the building. I was just curious, you had mentioned the trucks coming in and out. What size trucks? Do you have larger trucks bringing materials in that get assembled?

MR. ALTMAN: There's a few trucks that would bring materials in. We usually have Yellow and New Penn. Actually New Penn is right behind us. They come down every day. Maybe there's

1  
2 three, four trucks that come in, tractors, to  
3 load up. It's not like your typical warehousing  
4 where you have 200,000 square feet warehouse and  
5 6,000 of offices and trucks in all day long. You  
6 couldn't have that with an office, it wouldn't  
7 work. We have isolated a road to get in, a  
8 common road that bears to the right, and the  
9 parking would be more or less to the left. Reg  
10 will explain that to you. We did it the best we  
11 could and whatever we have to change or make  
12 better or fix, we'll just do it, you know.

13 CHAIRMAN EWASUTYN: Reg, we're going to  
14 have you walk through the site plan with the  
15 understanding, and I think, if I may call you  
16 Robert, said you're going to demo the building.  
17 The existing building cannot remain.

18 MR. ALTMAN: No. The house?

19 CHAIRMAN EWASUTYN: The house.

20 MR. ALTMAN: I would like to keep it  
21 until we get the construction done and then it  
22 will be out.

23 MR. DONNELLY: The only prohibition is  
24 it being a residence. We can condition the CO.

25 MR. ALTMAN: I'm not going to rent it

1  
2 out or anything like that. I just figured it  
3 would be good when it's cold in the winter you've  
4 got heat and water.

5 MR. DONNELLY: In terms of the timing,  
6 if we could condition the CO on it --

7 MR. ALTMAN: If you want to knock it  
8 down after I get my building up before you get  
9 this one --

10 CHAIRMAN EWASUTYN: That's something  
11 that Mike is eluding to. We can tie it into a  
12 certificate of occupancy.

13 MR. ALTMAN: However you want to do it.

14 CHAIRMAN EWASUTYN: Thank you.

15 All right, Reg. Why don't you take us  
16 through it.

17 MR. WALTERS: We might start from the  
18 location if you want a sense of where we are in  
19 terms of the airport, in terms of 84 and in terms  
20 of 87. As you are probably already aware, we are  
21 in the flight path restricted zone. I think  
22 there's the runway. It actually goes over there.  
23 We do have height restrictions and we will be  
24 required to get a no hazard permit from the DOT.  
25 We're comfortable with that and we're moving

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forward with that.

As you can see the surrounding area, it's all compatible with the proposal. We do have some residences down here. I would suggest that that may -- over a period of time that might change. I don't think we're going to be impacting in the long term on any residential properties going forward.

On the site plan itself, in terms of the comment that Bryant made in reference to the one-story building, it's a one-story, one roof manufacturing area. Around the peripheral here on that side are the offices, and they're two story. So the bulk of the building itself is just floor to ceiling with this side, that western side, being the offices on two floors.

MR. BROWNE: The internal ceiling height is how high for the manufacturing area?

MR. WALTERS: For the manufacturing section I'm not too sure. Two stories, so 25 --

MR. ALTMAN: The inside. 26.

MR. WALTERS: 26, 28.

MR. BROWNE: So the thing for a one-story manufacturing is a lot different than a

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one-story office building. Okay.

MR. WALTERS: Right.

MR. ALTMAN: There's some mezzanines in it. It's 9,000 square feet for electronics. That's isolated.

MR. BROWNE: You have all the air handling stuff in there, the fumes and whatever?

MR. ALTMAN: I'll tell you, there's really no fumes.

MR. WALTERS: We'll submit the floor plans and internal elevations. I think that will make it clearer.

MR. MENNERICH: This facade you show here, is this facing west or facing 17K?

MR. WALTERS: That's facing here, west. This building here is facing 17K. Just by way of explanation, when this site plan was prepared and submitted the manufacturing plant architecture was well advanced. This is just hot off the press today. This is the first time I've really seen the proposal for the new building in the front.

MR. ALTMAN: The first plan was one building that sat this way on the property and we



1  
2 were going to use one-and-a-half sides for  
3 offices and the other side-and-a-half was going  
4 to be class A office space. I felt that kind of  
5 didn't fit too well, just what's happening up  
6 here on 17K and the airport. I felt it would  
7 be -- you know, isolate the offices from our  
8 building so I can get up here in one piece, move  
9 out of Yonkers in one piece and get situated with  
10 help and people and not worry about renting  
11 offices and stuff like that. Get this and put  
12 this in the back and then put a nice office  
13 building that's strictly an office building in  
14 the front. I kind of fit that in with what's  
15 happening up here and it works a little bit  
16 better.

17 MR. WALTERS: I'll take you through  
18 some of the utility issues. We have water and  
19 sewer available in the right-of-way. We can have  
20 connections to those. They are both in the water  
21 and sewer district.

22 Our stormwater management. We have  
23 located the stormwater management pond at the  
24 rear of the property. There was -- you know, we  
25 did look at the design of putting something in

1  
2 the front but then that rules out any further  
3 options that Bob might have for the future. He  
4 hasn't got anything specific in mind but he would  
5 just like to have his options open in terms of  
6 this front area here.

7           The parking, the parking requirements.  
8 We exceed the parking requirements by in the  
9 order of, when we're fully built out, about 50  
10 spaces.

11           I note one of the consultant's comments  
12 is that we could reduce the number of the spaces  
13 and provide extra landscaping buffer. That's  
14 certainly something we can review, and without  
15 impacting on our parking we can perhaps satisfy  
16 that requirement.

17           In terms of phasing, the idea is that  
18 Bob will build the plant in the back. This front  
19 area, given the fact there's going to be a year  
20 or perhaps even longer between the two  
21 operations, this would be all landscaping. It  
22 will be just straight lawn but it wouldn't be  
23 left, you know, just a disturbed area. It would  
24 be made into a parklike feature. It will all be  
25 graded and all the services and all the utilities

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2 are provided for the full build out. So  
3 everything will be in for the full build out.  
4 This will be left as a lawn area. At such time  
5 as this project then is ready to go, obviously we  
6 would have to make a site plan application for  
7 development of this side here.  
8       There has been a question raised about  
9 why we are proposing to provide some excessive  
10 amount of parking for the full phase I given that  
11 the parking requirement for phase I is in the  
12 order of 90 and we're going to be providing  
13 almost 300. The reason for that is purely a  
14 constructability issue. We have to get access to  
15 the rear. The trucks have to get access to, you  
16 know, the loading dock. So we're building this,  
17 we're building the back. We have to get access  
18 to this area here, so we'll be building that. It  
19 doesn't make a lot of sense just to cut out these  
20 parking stalls because, you know, from a  
21 construction point of view to go back and install  
22 a little bit here and a little bit here, it's  
23 kind of not cost effective. So that's kind of  
24 the rationale behind providing all those spaces  
25 in the first phase.

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CHAIRMAN EWASUTYN: Okay. Let's try and summarize it at this point so we can have our consultants speak and to see if there's any questions from the Board Members before we turn to our consultants. Frank Galli?

MR. GALLI: The driveway, the landscaped driveway going up to the property, how long is that going to be? 100 feet? 200 feet?

MR. WALTERS: It's more than that.

MR. GALLI: 500 feet?

MR. ALTMAN: 250.

MR. WALTERS: It's 200. 200 to 300.

MR. GALLI: That's strictly going to be road and landscape?

MR. ALTMAN: There's two lanes in each direction and a center divider with low shrubs so you can see cars both ways, and then 15 feet on each side that's landscape down with a wall and sidewalk, beautiful brick and nice sharp stuff going on. I know we have to come up with all the landscaping. We didn't get to that yet.

MR. GALLI: Now playing the opposite, say that building in the front doesn't get built for some odd reason, things go bad, the developer

1  
2 doesn't pay you the rest of your money and you're  
3 in there, is that going to stay green landscaped  
4 and that's it?

5 MR. ALTMAN: Well, I have other ideas  
6 too if that doesn't happen, you know.

7 MR. GALLI: You have to come back for  
8 site plan anyway. We just don't want to see a  
9 parking lot for the airport.

10 MR. ALTMAN: Absolutely. That's going  
11 to happen whether it's an office building or  
12 something else. It's going to get built out.

13 MR. GALLI: That's the only question I  
14 have.

15 CHAIRMAN EWASUTYN: Cliff Browne?

16 MR. BROWNE: Just to follow up a little  
17 bit. If the front building doesn't happen what  
18 are we looking at for a front facade say facing  
19 17K? What's that going to --

20 MR. ALTMAN: We'll come up with a whole  
21 architectural landscaping proposal for you. That  
22 will be, you know, wall, it will be brick. It  
23 will be bricks or landscaped. It's a whole  
24 entrance. Are you talking about the entrance?

25 MR. BROWNE: We're coming in the

1  
2 entrance, and at least until you build the front  
3 building we're going to be looking at the --  
4 MR. ALTMAN: I would like to do the  
5 entrance next year and get that done already, get  
6 a plan in here that you love and at least fix the  
7 front entrance.  
8 MR. BROWNE: We have had a lot of folks  
9 come in with a lot of good intentions.  
10 MR. ALTMAN: I know that. Talk is  
11 cheap, I know.  
12 MR. BROWNE: If it doesn't happen what  
13 are we left with?  
14 MR. WALTERS: Obviously during that  
15 interim period -- there is a reasonable grade  
16 going up here so you're actually looking towards  
17 the sky line to some extent. This facade here is  
18 not -- what would you say -- architecturally  
19 designed to present to the public. If this is not  
20 there what are you seeing there?  
21 MR. ALTMAN: A wall and shrubs.  
22 MR. WALTERS: The wall of a  
23 manufacturing building.  
24 MR. BROWNE: Where we're coming from is  
25 we would want to have that presentable enough so

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if the front doesn't happen --

MR. ALTMAN: Absolutely.

MR. BROWNE: -- it's appropriate.

MR. ALTMAN: Absolutely.

MR. WALTERS: Okay. That would come out during the architectural review and you would see the renderings and we would be proposing something that will satisfy that.

MR. ALTMAN: That wall and landscaping and everything will be done before the building.

MR. BROWNE: I'm looking at the wall and I'm saying assuming the front building doesn't go in, you don't want to kill yourself on that either, the back one. There's a trade off there someplace.

MR. ALTMAN: You should look at some of the pictures I've got with the landscaping. I'll be glad to show them to you right now.

CHAIRMAN EWASUTYN: For the sake of time, it's late in the evening, if you want to leave something you can leave it with Dina Haines who will make it available in the office. At this point I'd like to move through the site plan, get it over to our consultants for their

1  
2 comments and sort of take advantage of the time  
3 and at the same time move forward.  
4 Ken Mennerich?  
5 MR. MENNERICH: Just continuing on, I  
6 guess if that other building doesn't get built I  
7 don't think we want to see the metal type facade.  
8 MR. ALTMAN: Mm'hm'.  
9 MR. MENNERICH: Just in case phase II  
10 didn't happen, we would want to see something  
11 similar to brick or whatever you're using.  
12 MR. ALTMAN: We could put a lip on the  
13 building that if for any reason that building  
14 didn't get built we could go straight up and  
15 brick that side like the front, like the west  
16 side, just to make you feel comfortable that if  
17 it didn't happen, which it is, but if it didn't  
18 happen that we would brick the rest of the way  
19 up. We can do that. We can work it out. The  
20 foundation, maybe put a lip on the bottom like  
21 that.  
22 CHAIRMAN EWASUTYN: Ed O'Donnell?  
23 MR. O'DONNELL: If I go to your website  
24 will I get a view of your factory that's in  
25 Yonkers or am I going to get --



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MR. ALTMAN: I'm not good on the computer. My whole place runs on -- the website, I don't know if the buildings are on there. Certainly our product line and about the company is on there. I would love for somebody when passing through Yonkers to come in and see us. A picture is worth a thousand words.

MR. O'DONNELL: Let me give you my opinion. I think what you've presented is professionally done. It's certainly to my liking. On the other hand, the way we operate is straightforward, demanding. You've got to meet the rules.

MR. ALTMAN: No problem.

MR. O'DONNELL: We're rules guys, we're rules oriented but we have to think we do the best things for our Town. So we're going to expect you to do that.

MR. ALTMAN: Absolutely. I would expect you to hold me to the fire.

MR. O'DONNELL: I'm happy to see industry coming here, jobs. It's a great thing to do. We'll pursue this.

MR. ALTMAN: It's not a matter of if,

1  
2 it's when. Building 214, Story Towers, is on the  
3 south side of me right now and then there's the  
4 Yonkers Water Works, there's a park which I sold  
5 to Scenic Hudson about ten years ago. We're the  
6 next piece next to the train station. Usually  
7 the density next to train stations are the  
8 highest densities, so we're the next piece to go.  
9 We're talking to three or four different  
10 developers now.

11 MR. O'DONNELL: Then you shouldn't run  
12 out of money building this place.

13 MR. ALTMAN: I shouldn't. To tell you  
14 the truth, I shouldn't.

15 CHAIRMAN EWASUTYN: Joe Profaci?

16 MR. PROFACI: I'm good for now. Thank  
17 you.

18 CHAIRMAN EWASUTYN: We'll start with  
19 Ken Wersted to introduce us to the project as  
20 he's driving either a truck or a vehicle into the  
21 site. Ken Wersted is our Traffic Consultant.

22 MR. ALTMAN: We're going to need you.

23 MR. WERSTED: I went out and I took a  
24 look at the site. There's not much to see right  
25 now. I stopped on the side of the road near

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where the entrance was. I had noted that the entrance is approximately halfway between the Corporate Boulevard traffic signal and the traffic signal to the east where the National Guard entrance to the airport is.

I notice also in the E.A.F. that a traffic study is being prepared. We'll review that in more detail.

Just going through the site and looking at the details that are provided, I noted that you probably aren't going to need four lanes at the entrance drive, two entering and two exiting. You can probably neck that down to have one possibly wider than usual lane entering to accommodate your trucks, and then on the exit you can probably have one that's interior to the site, and as you get out toward Route 17K widen that out to two lanes and that will provide less paving width and also help out the things Karen has with the landscaping.

The trucks are obviously going around the side. It looks like the larger sized trucks can be accommodated over there. If you've got trucks heading in that direction you might need a

1  
2 little signing to say this is the truck route,  
3 turn right here. With the two buildings there  
4 you're probably going to need some type of way  
5 finding, turn left, go around the back, and the  
6 general office would be right in front of you.  
7       Some of our other comments: As part of  
8 the traffic study and as part of the signing plan  
9 the MUTC numbers are changing from the New York  
10 State to the Federal, so those just need to be  
11 updated.  
12       In going through your traffic study  
13 it's likely you're going to need to widen Route  
14 17K to provide a left-turn lane to get traffic  
15 in. There are left-turn lanes down the road on  
16 either end of that.  
17       MR. ALTMAN: How do you come out of  
18 there and make a left? You know, if you see a  
19 break for people traveling west and then you try  
20 to make a left -- sometimes you wait there  
21 five minutes. If I've got 100 people and there's  
22 200, that's 300 cars coming out of there, you  
23 know.  
24       MR. WERSTED: It will be less likely  
25 DOT has to do something than you have to do

1  
2 something. So obviously when you're looking at  
3 the traffic study you may want to look at a  
4 warrant for a traffic signal. There may be other  
5 options. One possibly might be to time the two  
6 lights such that they provide the gaps that you  
7 need to make a left out. The widening in itself  
8 will also help accommodate left turns out of the  
9 site by being able to turn into a median and then  
10 get into the eastbound travel lane.

11 One of the other options that we threw  
12 around was emergency access out the back to one  
13 of the neighboring properties. As part of that  
14 you'll have to look into those issues.

15 MR. ALTMAN: There's a road. There's a  
16 road right here that's a hard road that goes all  
17 the way to the back. I think you said the fire  
18 department would like to come in through here.

19 MR. WALTERS: Sometimes -- yeah.

20 MR. ALTMAN: There's access into here  
21 off of this road in the back here, too. Like  
22 emergency vehicles. It is rough getting out of  
23 there.

24 MR. WALTERS: I think it's quite  
25 feasible given the grades.

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MR. O'DONNELL: That's going to be the most challenging part for you I think is this traffic issue.

MR. WALTERS: I can say from Bob's perspective when he came to us he said the most important thing for me is to make sure the people who work for me and are going to occupy this building have safe and convenient access to and from the site.

MR. ALTMAN: They come barreling down that road 50 miles-per-hour and you're trying to get out, it's a little shaky.

MR. WALTERS: We have had a DOT inspector out there at the location -- preferred location for the access and also the issues that you've spoken to already about, the existing traffic lights. Out of the study and out of the discussions with DOT I'm sure we'll come up with something that works and satisfies both.

MR. ALTMAN: I want to do it right and make it as safe as possible, you know.

CHAIRMAN EWASUTYN: Additional comments, Ken?

MR. WERSTED: When we get that material

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we'll provide further comment.

CHAIRMAN EWASUTYN: Pat Hines, let's discuss the proposed detention pond and drainage.

MR. HINES: I think you have my site plan comments. In reviewing the site plan I noted that the proposed detention pond is located actually on the current highest elevation of the site and you're kind of bumping grade with the detention pond. It looks to me it would work better in the front where the existing structure was. That was our initial take on that because you're putting the retaining wall and changing site grades in order to construct the detention pond up on the highest portion of the site. We don't have a stormwater management report yet but you're putting in an awful lot of piping to get water to the back and bringing water from the back out to the front.

MR. WALTERS: We've done that.

MR. HINES: I see you're agreeing with me.

MR. WALTERS: We did that. We put a lot of work into making sure that does work. We know it works hydraulically. The point is that

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it will be much better in the front. I totally agree in terms of engineering and in terms of cost. No doubt about that. That closes any future option for this front portion.

MR. HINES: One of the things you need to look at is your lot coverage. When you're thinking future options I think you've got quite a lot of impervious surface there. You may be nearing your limits there. That's something you have to take a look at. I don't want to put too much emphasis on it. You'll have lot coverage issues that you may be addressing. We'll continue to look at that.

I know there's a large retaining wall to the rear that's needed in order to also construct that detention pond. Again, we'll review it as it goes. It seems a little backwards but it may work. We'll look at it.

Water and sewer, that hasn't been addressed yet but we'll look at that. I don't know if you need a pump station to make the grades there. Have you looked at that yet from the rear all the way out --

MR. WALTERS: To make the --



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MR. HINES: In order to get the sewer.

MR. WALTERS: I think we've got gravity. That actually depends on where you're going into the building to be perfectly honest. It's what we need to examine more closely where our building connection points will be.

MR. HINES: The residence isn't allowed in the IB Zone. You may be able to work out something with the building department, the zoning department to allow it to remain for an office use or something key to a CO. That's something that has been done in the past.

Drainage improvements within the DOT right-of-way, we'll require their approval and consent to install those.

There's a change in contour interval on the plans. It's a little confusing when you have two footers and it switches to one footers. You have to be consistent there. I can provide you with standard notes for water and sewer, although your Newburgh office may have them in the files available.

The phasing I have some concerns about. What if the first -- the second phase doesn't

1  
2 happen? Some of the parking you're constructing  
3 under phase I is very far away from the proposed  
4 manufacturing use and it really doesn't seem to  
5 function as an initial phase. I didn't know if  
6 maybe that could be staged a little different  
7 leaving the first phase -- the second phase area  
8 in a condition that it is now and staging your  
9 construction. You seem pretty confident you're  
10 going to build that phase II. We have had  
11 experiences in the past where phase IIs don't  
12 come as rapidly as the developer anticipates.  
13 We'll be looking at how that's going to work on  
14 the site and how that will look in the long term.  
15 That's my comments.

16 CHAIRMAN EWASUTYN: Okay. Bryant  
17 Cocks, Planning Consultant?

18 MR. COCKS: One of my first concerns  
19 was the actual lot coverage as Pat said. There's  
20 a lot of asphalt on there and with the two  
21 buildings it's going to be covering a large  
22 portion of the site. You mentioned that the  
23 front portion could possibly be developed along  
24 with the lot coverage problems. There's also a  
25 sixty-foot setback that you have to maintain and

1  
2 a thirty-five foot landscape buffer. I don't  
3 think there's going to be room to put anything on  
4 this to begin with. That and the lack of green  
5 space, I think you guys really should look at  
6 trying to either put the detention pond up there  
7 with a lot of landscaping around it or really  
8 utilizing that as green area to kind of mitigate  
9 the rest of the asphalt on site.

10 I was also wondering if the area in  
11 between the two buildings is all paved in there?  
12 There's only parking spots on half of it. Is  
13 there like outdoor storage you guys need that  
14 area paved for?

15 MR. WALTERS: Well, as I said at the  
16 start, when we proposed this phase II building it  
17 was conceptual. When we submitted the  
18 application that's what we thought was going to  
19 happen so we tried to provide the contingency for  
20 moving forward with that concept. I think,  
21 correct me if I'm wrong here Bob, but we had some  
22 idea that the back space here would be sort of  
23 like flex space, smaller type warehouses that  
24 would require access by delivery trucks,  
25 et cetera. So these would all be -- these would

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all have access to this area here.

MR. ALTMAN: If we did the flex space.

MR. WALTERS: Well, that's the flex space there. This would provide a turnaround for a vehicle. It's more maneuverability space and access to this flex space here. We're a long way from being completely certain on that.

MR. ALTMAN: If we made it straight class A office space the back could be landscaped more going out in that area.

MR. WALTERS: To be perfectly honest, this is kind of like a work in progress.

MR. COCKS: I don't know what kind of trucks will be able to turn around back there. I mean how much is that?

MR. WALTERS: I think we ran some models. We can get smaller delivery type trucks through there. You know, Fed Ex, UPS type trucks around there.

MR. COCKS: They've already addressed most of the architectural comments and some of the phasing comments that I had.

We also mentioned the flight path zone that's going to be there. You'll need a permit.

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I guess that's about it for now.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: It might be nice if -- I don't know if this works at all but it might be nice to consider a green space between the building and orient the offices towards that green space. On your rendering you're showing all this green space in front of the offices of your building. That isn't going to be there according to the measurements on the plan. Just a thought, maybe if you made this entryway like a courtyard space with green space between both buildings it would be -- and then the nice part of the facade will be facing the highway. So even if you don't build phase II you would still have like the nice part of the building facing out. Anyway, just an idea for you to think about.

I would like you also, when you're looking at this plan, to try to think about a low-impact development. Like Ken said, you probably don't need these two lanes here and if you narrowed it to one lane you could save more trees. Look around the site and see where that's

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possible, where you could limit some of the pavement and try to get more green space. It is a lot of blacktop and asphalt and buildings. There's hardly any green space.

MR. ALTMAN: I think we need to work on that.

MS. ARENT: That would be great.

MR. ALTMAN: I think we need to work on that.

MS. ARENT: Try to save some kind of border, whether you save existing plant material or you plant more. There's a lot of plants on the site that you could just save if you can get the grades to work out. Just study some of the visual impacts.

I had specific tree planting material comments. That's about it.

CHAIRMAN EWASUTYN: Mike, do you have anything to add at this point?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: A minor note. Reg, you have to change your drawings. You have a note that this is going to be filed in Dutchess County. Where is that sheet? Owner application

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it says the filing of this plat in Dutchess  
County Clerk's Office.

MR. WALTERS: Okay. Wrong county.

CHAIRMAN EWASUTYN: I think it's  
interesting. I'm a little set back. I think  
it's a great program. When I hear work in  
progress, when I hear about the other building as  
far as doors and trucks pulling in and pulling  
out, I realize that overall I like the plan but I  
fully don't understand what you're grasping for.  
I think you're smart and I think you're looking  
to maximize the use of the property based upon  
your history maybe in Westchester. You were  
successful ten years ago selling something off so  
you're very good at parlaying things. You're  
leaving all your chips out there to really  
increase your nest egg, which is great, that's  
why you're successful.

MR. ALTMAN: I understand what your  
concerns are.

CHAIRMAN EWASUTYN: I don't really  
understand how this is going to blend in, if  
there are going to be trucks being staged out  
there, if there are going to be pallets. The full

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2 activity. If you could come back to us with a  
3 concrete idea of what just came off the press and  
4 say this is how the plan is going to be, this is  
5 how we're going to be designing it, this is how  
6 it's going to work, then I think we have a  
7 workable program.

8 MR. ALTMAN: Okay.

9 CHAIRMAN EWASUTYN: I don't know if  
10 we're ready yet to approve the concept.

11 MR. ALTMAN: It needs some work.

12 CHAIRMAN EWASUTYN: Okay. If you're  
13 comfortable with that.

14 The only thing that I ask Mike is if  
15 we're ready to declare our intent for lead agency  
16 or should we wait until --

17 MR. DONNELLY: I don't see any reason  
18 why we can't do that.

19 CHAIRMAN EWASUTYN: Okay. Why don't we  
20 accomplish that this evening. We'll move to  
21 declare our intent for lead agency.

22 MR. PROFACI: So moved.

23 CHAIRMAN EWASUTYN: I have a motion by  
24 Joe Profaci.

25 MR. GALLI: Second.



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CHAIRMAN EWASUTYN: A second by Frank Galli. Any discussion of the motion?

MR. MENNERICH: Do you have to send a plan when you --

CHAIRMAN EWASUTYN: We do. I think the footprint -- you're going to be working within the same footprint. I hear what you're saying. That's why I ask you what do you think?

MR. DONNELLY: It's not carved in stone. Everything changes. You're right, it's likely to shrink, not grow.

MR. ALTMAN: We want some more green space, some more landscaping.

CHAIRMAN EWASUTYN: We want you to have a better understanding of what it is you're looking to design based upon what you feel the end use of this building is going to be. Is it going to be flex space?

MR. ALTMAN: I started -- I spoke with a real estate fellow up here and he said -- this is when I purchased the property in February. He said you're probably better off with office space in the front and flex space in the back because that's where the market is, for that kind of

1  
2 thing. I'm kind of looking at what's happening,  
3 the Port Authority buying the airport and you can  
4 see the building for the entrance ramps and exit  
5 ramps. The handwriting is on the wall that  
6 they're going to push the airport. You turn on  
7 the news and they want to limit the flights from  
8 107 flights on peak hour down to 81. You can see  
9 the emphasis is to push traffic up into the  
10 airport. I'm saying maybe we'll need to market  
11 class A office space by the time this thing is  
12 built. Jet Blue or Continental or something  
13 would probably like something like that. That  
14 was the idea with the difference between first  
15 starting with office in the front, flex space in  
16 the back and then turning it around. Then we  
17 went straight to like a class A office space.

18 CHAIRMAN EWASUTYN: Robert, what do you  
19 think you might wind up with between now and when  
20 you come back? That's the question before us.  
21 While you're in Florida think about it.

22 MR. ALTMAN: I'll tell you, I wasn't  
23 going to talk about it today because we didn't  
24 want to throw too much at you.

25 CHAIRMAN EWASUTYN: Do you want us to

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leave the room and you can --

MR. ALTMAN: No, no. This is I guess a good time to talk about it before we go on a wild goose chase.

CHAIRMAN EWASUTYN: I think that's important. That's really what I like to do.

MR. ALTMAN: Put it on the table, that's my style. The idea was that if it doesn't work, it doesn't work, just leave it out. The idea was on this plan we have this road going here this way and we had so many spaces. I had to cut down the building a little bit and bring the service road up into here. This would bring it from like 1.6 to like 2.8 acres in the front. I thought that a high-end lodge, like Steinricks in New York City with big notch beams, beautiful high-end restaurants and maybe twenty rooms in there would fit and serve the community. I haven't seen that up here. I don't know the area too well, I've just been back and forth. We did this and then I says well how about in the front if we put a beautiful high-end like Montana log lodge, Control Tower Sports Bar & Grill, a place that would be really a beautiful place. It would

1  
2 be a high-end type of place but reasonably priced  
3 but it would be a really good place.

4 MR. O'DONNELL: I want you to know that  
5 it wasn't too long ago we had somebody in here  
6 and they proposed a topless steakhouse.

7 MR. ALTMAN: My contention was if you  
8 had an office building with a Jet Blue you would  
9 have the pilots, you would have the stewardesses.  
10 Maybe they didn't want to stay at the Holiday  
11 Inn, they wanted a place where you could have a  
12 beautiful library and, you know, you have  
13 wonderful desserts and fancy drinks and cognacs  
14 and really a beautiful high-end type of Montana  
15 type lodge. Maybe we'll eliminate the office and  
16 think about a lodge. Maybe we can fit it in if  
17 we can find a combination that satisfies the  
18 right way of doing things. Like I said, there's  
19 one way of doing things. Obviously if we did  
20 that, that would be a separate piece of property  
21 that I would break off of that.

22 So the idea was to get this in and  
23 prove ourselves, get up here and prove ourselves.  
24 At least get our building in here and move up  
25 here and make it look beautiful and grade the

1  
2 place and hydro seed it so there's no erosion or  
3 nothing like that, and then maybe decide to put  
4 the lodge in first because that would help sell  
5 the office space. The idea of -- you know, it's  
6 right on the front of 17K there -- for a  
7 beautiful high-end type lodge and hotel.

8 CHAIRMAN EWASUTYN: These are things we  
9 have to define between now and the next time you  
10 come back so we can all think together and work  
11 together.

12 MR. ALTMAN: That was the long-term  
13 idea, you know. Might as well put it all on the  
14 table.

15 MR. DONNELLY: One of the issues that  
16 the Board will face is whether or not from the  
17 SEQRA, the environmental analysis point of view  
18 we should make a number of assumptions about the  
19 total build out and address the stormwater, the  
20 traffic, the issues that come from that full  
21 build out now rather than do it piecemeal.

22 MR. ALTMAN: Well, I'm under the gun  
23 too. I mean I have time as long as we've -- tell  
24 it just like it is and straight up, that's  
25 probably the way to do it. I just didn't want to

1  
2 hold up my portion to get -- when I have to move  
3 with the developer I've got a year to build and  
4 all of a sudden I can't get approvals to at least  
5 get my building in there. We will take a look at  
6 it. I certainly can see the concerns that you  
7 have, and you're right. You're right, I think we  
8 have to go back -- the building, our building,  
9 that's done, what it's designed. I think the  
10 right way to do it is to push it in the back and  
11 put something nice in the front. Whether it's a  
12 combination of a high-end type of lodge and a  
13 smaller building or maybe just an office building  
14 or just a lodge, I don't know.

15 MR. WALTERS: I guess from our  
16 perspective trying to address the segmentation  
17 problem we probably advanced ourselves on the  
18 front end trying to overcome that segmentation  
19 issue. We know exactly what we're doing here,  
20 we're not a hundred percent certain what we're  
21 doing here but we want to bring it in to the  
22 picture so we can do the SEQRA, then we come  
23 across as like you don't really know what you're  
24 doing. It's a balance.

25 CHAIRMAN EWASUTYN: I don't think we

1  
2 meant it that way. As you described it it wasn't  
3 a clear picture and that's why I raised that  
4 issue.

5 I think right now, just to stay  
6 focused, I had a motion from the Board to declare  
7 our intent for lead agency by Joe Profaci. I had  
8 a second by Frank Galli. I opened it up for  
9 discussion. I had comment from Ken Mennerich.

10 Ken, was your question answered?

11 MR. MENNERICH: Yeah.

12 CHAIRMAN EWASUTYN: I'm just going back  
13 to where we were in the motion before us. Were  
14 you satisfied?

15 MR. MENNERICH: Mm'hm'.

16 CHAIRMAN EWASUTYN: If not we can hold  
17 off on declaring intent.

18 MR. MENNERICH: No.

19 CHAIRMAN EWASUTYN: Any further  
20 discussion?

21 (No response.)

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

24 MR. GALLI: Aye.

25 MR. BROWNE: Aye.

1  
 2 MR. MENNERICH: Aye.  
 3 MR. O'DONNELL: Aye.  
 4 MR. PROFACI: Aye.  
 5 CHAIRMAN EWASUTYN: And myself. So  
 6 carried.  
 7 Bryant, you would be circulating.  
 8 Reg, it will be necessary to get the  
 9 necessary materials to Bryant Cocks, our Planning  
 10 Consultant, who will circulate for lead agency.  
 11 Robert, in the meantime if you could  
 12 begin kind of formalizing your vision. We look  
 13 forward to receiving --  
 14 MR. ALTMAN: What do you think? You  
 15 know the area, you live here. What do you think  
 16 of the idea of an office building? Does the Town  
 17 like that idea? What do you think about the idea  
 18 of a nice lodge?  
 19 MR. HINES: The problem I see with the  
 20 lodge is that zoning requires 5 acres for that  
 21 use.  
 22 MR. ALTMAN: Maybe eliminate the office  
 23 building and build a really nice lodge there.  
 24 What would the Town like to see? What would you  
 25 rather have?



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MR. HINES: Watch out for your neighbors with the hotel.

CHAIRMAN EWASUTYN: You may want to approach the Town Board and look to be on a work session with the Town Board and get some feedback from the Town. That might be a possibility.

MR. ALTMAN: I would think you'd see hotels going up there and --

CHAIRMAN EWASUTYN: Right next to yours there is.

MR. ALTMAN: There's rooms for \$99 a night. You certainly can't charge --

MR. GALLI: There's a hotel going up that's having a problem.

MR. ALTMAN: Pardon?

MR. GALLI: Right now there's a hotel that's going up that's having a problem.

MR. ALTMAN: Down on the 8-acre piece?

MR. GALLI: Corporate Boulevard.

MR. MENNERICH: It's proposed.

MR. GALLI: The corporate park.

MR. ALTMAN: East of this?

MR. WALTERS: West.

MS. ARENT: Right next door to your

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property. It shares your property line.

MR. ALTMAN: Somebody called six months ago looking to buy that piece.

CHAIRMAN EWASUTYN: I'm going to adjourn on to other business for now. Nice to meet you.

MR. ALTMAN: Thank you. Thank you, everybody. We'll get back to you.

MR. WALTERS: Thank you, Mr. Chairman.

(Time noted: 9:30 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: November 23, 2007

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

----- X

In the Matter of

RHODA REALITIES  
(2007-41)

Southern side of Highland Terrace  
Section 20; Block 8; Lot 77  
B & R-3 Zone

----- X

CONCEPTUAL SKETCH PLAN  
FOUR-LOT SUBDIVISION

Date: November 15, 2007  
Time: 9:30 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

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CHAIRMAN EWASUTYN: The next item of business we have this evening is Rhoda Realities. It's a conceptual sketch plan for a four-lot subdivision on the southern side of Highland Terrace in an R-3 Zone. It's being represented by Jonathan Cella.

MR. CELLA: The existing parcel is 8.65 acres. It's split zoned, B and R-3. It fronts on Highland Terrace and Route 9W. Currently the proposal is to create three residential lots all off of Highland Terrace, two sharing a common driveway on the eastern side and one on the western end of the parcel with a single driveway.

The residential lots are approximately an average of 1.4 acres with 4.5 acres left in the B zone which we have no current plans for development at this time.

CHAIRMAN EWASUTYN: I'll take comments from our Planning Board. Bryant Cocks?

MR. COCKS: As he mentioned, the front of the site is zoned B. We are going to have to see just a building envelop and stuff like that in there just to make sure it's actually

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developable.

Also, since it's bordering a residential zone you're going to have to show where the buffer would be in there.

The wetlands have to be delineated on the site.

There's just two houses up there?

MR. CELLA: Yes.

MR. COCKS: We just need to see the property lines and septic locations with that.

These lots are pretty much going to be in between McCall Place and Highland Terrace. It's pretty much going to be in a couple people's backyards. I would like to see some screening if possible. I know it's not required for residential to residential but I think because of the nature of the location of these houses, that it would probably be favorable, and it's probably going to be asked for at the public hearing, which I think there's going to be a lot of people for.

We're going to need a surveyor's seal and signature, a better location map. We're going to need whatever language you have for the

1  
2 thirty-foot wide drainage easement that's on the  
3 commercial site. You guys are going to need a  
4 common driveway maintenance agreement for lots 6  
5 and 7. If you guys could just label, just for  
6 clarification, the original lot numbers on the  
7 plan since they just start at 5.

8 Other than that, they meet all zoning  
9 and setbacks so they won't require any variances.  
10 Just add that stuff to the plans.

11 CHAIRMAN EWASUTYN: Pat Hines?

12 MR. HINES: Lot 4, the lot that's in  
13 the B zone there, is less than 5 acres so you  
14 need to show some use on there and an  
15 appropriately sized subsurface sanitary sewer  
16 disposal system for some permitted use. Whatever  
17 it is, show that it is a usable lot because it's  
18 less than 5 acres.

19 Confirmation that the adjoining lots  
20 are served by Town water. I think Bryant asked  
21 you to show the house locations and such. Just  
22 show that they are actually connected to Town  
23 water so there's separation from the wells.  
24 The separation, lot 4 and the wetland area shown  
25 on lot 5 is less than 100 feet so we need to take

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a look at where that septic falls.

Lot 5 has what appears to be a large  
depressional area in the driveway area there. I  
don't know if that fills with water or there's a  
drainage issue.

MR. CELLA: It's all bank run. When we  
did the soil testing, the soil on that end of the  
property is just --

MR. HINES: That's actually lower than  
the area that you show of the wetland.

MR. CELLA: Yeah. There's a little  
ridge in here. This wetland area, I did walk the  
property, it seems -- we're going to have to  
delineate it.

MR. HINES: Because it was filled?

MR. CELLA: I don't know. It seems to  
be more of a dumping ground.

MR. HINES: I think that entire front  
lot was filled at some point.

MR. CELLA: There's coolers and car  
parts.

MR. HINES: I think you'll find that  
was filled.

Take a look at the finished floor



1  
2 elevations and the drainage in that area. The  
3 topo is shown in the hole there.  
4           You need a road name on the frontage  
5 there and a shared access agreement for the  
6 driveways for Mike Donnelly. That's all we have.  
7           CHAIRMAN EWASUTYN: Comments from Board  
8 Members. Frank Galli?  
9           MR. GALLI: Not at this time.  
10          MR. BROWNE: No.  
11          MR. MENNERICH: No questions.  
12          MR. O'DONNELL: No comment.  
13          MR. PROFACI: No comment.  
14          CHAIRMAN EWASUTYN: Just for the maps,  
15 as Ken Mennerich had pointed out during the work  
16 session, can you note the sight distance in feet?  
17          MR. CELLA: Sure.  
18          CHAIRMAN EWASUTYN: You go from one to  
19 the other.  
20          I'll move for a motion from the Board  
21 to grant conceptual sketch plan approval for the  
22 four-lot subdivision for Rhoda Realities and to  
23 circulate it to the Orange County Planning  
24 Department.  
25          MR. BROWNE: So moved.

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MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Cliff Browne. I have a second by Ed O'Donnell.  
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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So  
carried.

MR. CELLA: Thank you.

(Time noted: 9:37 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: November 23, 2007

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

- - - - - X

In the Matter of

WOODLAWN HEIGHTS  
(2003-47)

Wenmar Drive between Willella Place & Woodlawn Ave  
Section 73; Block 2; Lot 78.3  
R-3 Zone

- - - - - X

AMENDED SUBDIVISION  
SEVENTEEN-LOT SUBDIVISION

Date: November 15, 2007  
Time: 9:38 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: JAMES RAAB

- - - - - X

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CHAIRMAN EWASUTYN: The next item on the agenda is Woodlawn Heights. I have it listed as an amended subdivision for a seventeen-lot subdivision located on land between Willella Place and Woodlawn Avenue. It's in an R-3 Zone and it's being represented by Jim Raab.

MR. RAAB: Basically what we're trying to do here is cut the cost and the maintenance down to the original drainage that was approved on the site by implementing dry wells on the individual lots. Darren had supplied Pat with some information earlier this year, I believe around July, and Pat had a chance to take a quick look at it and then gave Darren some direction there, and then Darren submitted some more stuff later on in the year, then it was decided we should bring it back before you once we got that far. Darren has no problems with the comments that Pat made. He can take care of all of that. We already submitted paperwork to the Town Board to get the drainage re-approved if, you know, it's okay with the Planning Board.

MR. HINES: I think that's the direction we need to head.

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As we were discussing this we did receive approval from the Town Board and the highway superintendent for placing the stormwater improvements underground within the right-of-way and now there's a change proposed. As long as they can address my technical comments and the Town Board re-approves that, I think they'll be on their way.

Jerry Canfield was here at work session and was a little surprised about a question posed about obtaining a building permit.

MR. RAAB: Somebody submitted a building permit?

MR. HINES: Somebody is looking for a building permit on one of the lots.

MR. RAAB: I'll take care of that. Goodbye, see you later.

MR. HINES: That's the only thing I have.

CHAIRMAN EWASUTYN: We received from Jim Osborne's office a check for \$25,000 for the inspection fees.

MR. RAAB: That's because there wasn't a bond submitted, okay. What we wanted to do is

1  
2 we wanted Jim's office to inspect the work that's  
3 been done out there. To do so -- they can't do  
4 it unless they have an inspection fee. That's  
5 why the check was submitted.

6 MR. HINES: I think Mr. Osborne's  
7 office was caught a little surprised when they  
8 found out --

9 MR. RAAB: He talked to me about it.

10 CHAIRMAN EWASUTYN: Do you want to  
11 manage this through Jim and Darrell as far as --

12 MR. HINES: I will. Jim involved me.  
13 I was here at work session the other day and Jim  
14 grabbed me and said what's happening with  
15 Woodlawn.

16 CHAIRMAN EWASUTYN: So the action  
17 before us tonight is really just to set up a  
18 meeting between yourself, Jim Osborne, Darrell  
19 Benedict to --

20 MR. HINES: Yeah. I'm assuming the  
21 Town Board, whoever wants to be there. Last time  
22 Mr. Woolsey and Mr. Booth were there.

23 CHAIRMAN EWASUTYN: Then I would move  
24 for that motion.

25 MR. MENNERICH: So moved.

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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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Let's end the mystery as far as Jerry Canfield saying that you were going to be -- Stewart Senior Housing was going to on Board business tonight.

MR. RAAB: I didn't say it was going to be on Board business tonight. Jerry told me it had already been on Board business.

CHAIRMAN EWASUTYN: What's your question then?

MR. RAAB: My question is what is the



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status of the clearing and grading application?

CHAIRMAN EWASUTYN: And who -- are you speaking for Harry Lipstein?

MR. RAAB: Yes.

CHAIRMAN EWASUTYN: Okay.

MR. HINES: My understanding was we had a discussion, I don't know, a month ago or so regarding the clearing and grading permit and that it was approved here by the Board with the condition that adequate security for the ground disturbance, at which time it was 2.7 acres of disturbance at \$4,000 an acre is the number we've been using for that. So with posting of, I think we rounded it up to \$12,000 and three acres security, that that was fine. I don't know if that was memorialized in a resolution or an approval.

MR. DONNELLY: I'm looking for that here. I don't know if it was. I know we talked about it.

MR. HINES: Because the project would not need that if it has final approval and they're looking to start prior to final approval because I think they're waiting for Health

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Department approval. So they came in and asked for the clearing and grading permit. Had they had final approval that would be covered under the normal course of a site plan review.

MR. DONNELLY: There is another issue on this one. My notes indicate that this resolution of conditional final was granted on December 6 -- December 14, 2006. It's only good for 360 days, so we're fast approaching.

MR. RAAB: If we're going to amend the subdivision then do we need another public hearing?

MR. DONNELLY: It depends upon the extent of the changes. What I'm wondering is whether we should step it back down to a preliminary. If it expires and you're not back on the agenda by that date you're going to be starting over.

MR. RAAB: I was going to bring it up, Mike, before I left.

MR. DONNELLY: We talked about the issue and policy wise what you might want to do if there were going to be a lot of these. It seems like the few we've had are people who have

1  
2 not been able to, for whatever reason, complete  
3 the conditions. Once the final expires after  
4 360 days I don't think you have the power to  
5 revive it. If they applied again you would be  
6 hard pressed not to re-approve it. What we've  
7 done in another case is at the applicant's  
8 request substitute for the final approval a  
9 preliminary approval. They can then come in with  
10 the amendments and you can grant a new final  
11 approval and we're off and running for another  
12 year.

13 CHAIRMAN EWASUTYN: That was in the  
14 case of a site plan where they had the two years  
15 and they were granted the additional one year.

16 MR. DONNELLY: A conditional final  
17 subdivision, it's a State law now, 180 years --  
18 180 days and they can be extended for one  
19 additional period of 180 days. So it doesn't  
20 even equal a full year. If it was December 14th  
21 it's probably going to be December 6th, which is  
22 less than a month away. My thought was if we're  
23 not going to get this back before the Board in  
24 that time period we should entertain a request  
25 and knock this back down to a preliminary,

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otherwise we're going to run into that problem.

MR. RAAB: I would like you to give it preliminary approval.

CHAIRMAN EWASUTYN: So the action tonight would be to --

MR. DONNELLY: Grant the request.

CHAIRMAN EWASUTYN: -- to rescind the conditional final approval for the seventeen-lot subdivision for Woodlawn Heights and to grant it preliminary approval. Is that correct?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: What does he do when it comes time and he wants to build a house? He has to come back again for final?

MR. DONNELLY: He's going to have to get a new final.

MR. HINES: It will amend his final

1  
2 anyway and he can walk it with whatever was  
3 outstanding conditions. I think it was posting of  
4 securities  
5 MR. RAAB: Really the posting of the  
6 bond. That's all.  
7 MR. GALLI: Before he can do anything  
8 he has to come back on the agenda?  
9 MR. RAAB: Yes.  
10 MR. HINES: He can build the roads at  
11 preliminary without posting bonds. That's  
12 covered.  
13 MR. GALLI: The roads are in.  
14 MR. DONNELLY: He can build or bond.  
15 MR. HINES: In lieu of bonding they're  
16 building right now. I think they got ahead of  
17 themselves with Jim and Jerry.  
18 MR. RAAB: I don't know what the  
19 building permit -- that's the first I've heard of  
20 it. I'll get to the bottom of it tomorrow.  
21 MR. HINES: The answer was no.  
22 CHAIRMAN EWASUTYN: I have a motion by  
23 Joe Profaci. I have a second by Ken Mennerich.  
24 Any further discussion of the motion?  
25 (No response.)

1  
2 CHAIRMAN EWASUTYN: I'll move for a  
3 roll call vote starting with Frank Galli.  
4 MR. GALLI: Aye.  
5 MR. BROWNE: Aye.  
6 MR. MENNERICH: Aye.  
7 MR. O'DONNELL: Aye.  
8 MR. PROFACI: Aye.  
9 CHAIRMAN EWASUTYN: Myself. So carried.  
10 Let's go back. Did we memorialize --  
11 MR. DONNELLY: Steward Avenue Senior.  
12 I don't have that in my computer. I have the  
13 resolution here. If it isn't done I'll check it  
14 first thing in the morning.  
15 CHAIRMAN EWASUTYN: That was the  
16 opposite. I'm surprised that -- actually I'm  
17 surprised Harry kind of dropped out of this. He  
18 sat here that night --  
19 MR. RAAB: He was here that night when  
20 you did it?  
21 CHAIRMAN EWASUTYN: No. He was here  
22 the night when we talked about him being able to  
23 clear and grade the property. Okay. Well, this  
24 is what we agreed upon: You'll come up with  
25 something in writing for Mike's office that you

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can eventually get back to Harry. When Dina approached me today saying -- what did you say to me, that you heard from Jim Raab?

MS. HAINES: He called asking about being on the -- that Jerry had said it was going to be on --

MR. RAAB: He said it was either Board business or work session, and it was.

MR. DONNELLY: I just don't know what happened to the resolution. It may be done. If I haven't called you by noon call me tomorrow.

MR. RAAB: Thank you very much. Thank you for taking it up, John.

CHAIRMAN EWASUTYN: I mean I don't like leaving things out there. When I sense there's a lot of misinformation I like to pull it together. Harry worked hard on this.

MR. RAAB: Yes, he did. Thank you very much.

(Time noted: 9:48 p.m.)

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

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

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DATED: November 23, 2007



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

----- X  
In the Matter of

EDGE MOBILE, L.L.C.  
(2007-33)  
Orange County Department of Planning  
comments dated November 1, 2007

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:48 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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CHAIRMAN EWASUTYN: We just have a few items of Board business. Dina Haines.

MS. HAINES: We received the Orange County Department of Planning review comments for Edge Mobile on November 1, 2007.

CHAIRMAN EWASUTYN: We received a sign-off letter on the 14th, which you have a copy of, from Mike Musso recommending that the property is -- the project now is ready for a negative declaration. He'll discuss it with us during the public hearing.

Any comments from the Board Members before I move for a motion to declare a negative declaration and set it for the 6th of December for a public hearing?

MR. GALLI: Do you think it's going to be a big public hearing?

CHAIRMAN EWASUTYN: The other one wasn't.

MR. GALLI: I see they're stirring it up in New Windsor.

CHAIRMAN EWASUTYN: This one?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Another one.

EDGE MOBILE, L.L.C.

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I'll move for a motion to declare a negative declaration for Edge Mobile, L.L.C. and set it for a public hearing for the 6th of December.

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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 9:50 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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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

ORCHARD HILLS  
(2003-41)  
Developers Agreement

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:50 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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CHAIRMAN EWASUTYN: It's getting a little late in the evening but Dina, do you want to bring the next item up.

MS. HAINES: Sure. We have attached to the Board business tonight is the developers agreement for Orchard Hills that was drafted up by Mike.

CHAIRMAN EWASUTYN: The question now is have the Board Members had an opportunity to read it and are there any questions?

MR. DONNELLY: Actually Mark had sent it to the various consultants. I think you got an e-mail from me back at the end of October where we made a number of comments and proposed changes. Bryant had some, Pat had some, I had a few. My memory is that all of those were incorporated into it and then Mark's e-mail came that I sent to you asking if the Planning Board had any further comments. I think the consultant team was satisfied it addressed everything. I think that's all Mark wanted to know before they adopted it at the Town Board level.

CHAIRMAN EWASUTYN: Frank, do you have any comments on it?

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MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I guess my only question is if the Town Board is willing to do a developers agreement on this one.

MR. HINES: Yes.

MR. DONNELLY: That seems to be the case.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: Nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Mike, from what I understand, because I was reading through it and I noticed that it went from tying the recreation building in from the number of lots to months and you thought that would be an easier way of managing it, which is fine.

MR. DONNELLY: Those things I think are all calls for the Town Board. If they feel that they want to, for the trade off and whatever else they're doing, collect it at a later date, that's

1  
2 fine if they don't have any pressing need to  
3 utilize them. Where I see town boards make  
4 mistakes is to delay completely the payment of  
5 fees until building permits, and I think two  
6 things happen from that. One is the developer  
7 who sells lots then manages to pass that fee  
8 along, unfortunately sometimes unknowingly, to an  
9 innocent purchaser. Number two, I think in  
10 essence when a town does that it is lending money  
11 interest free to developers. If you've decided  
12 your fee for parkland should be X number of  
13 dollars based upon today's needs and costs, if  
14 you defer it wholesale for too long without an  
15 end in sight you're basically lending money to  
16 the developer, which I don't think makes sense  
17 for the Town. It delays it from the entire lump  
18 sum when filing the plat to some now and some  
19 later corresponding to the phases. I think all  
20 those things are appropriate. If that's workable  
21 for them it's fine as far as I'm concerned.

22 CHAIRMAN EWASUTYN: I guess it's fine.

23 MR. HINES: Really the impacts don't  
24 result until the project is built.

25 MR. DONNELLY: Another way is to say



ORCHARD HILLS

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when they pay the fee they've paid the fee that's  
in effect. Then you're not lending them money,  
it's the same money.

(Time noted: 9:54 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: November 23, 2007

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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)

Field Review - Selective clearing of  
embankment between the Hudson River and building lots

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:55 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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CHAIRMAN EWASUTYN: Dina, do you want to bring up the next one?

MS. HAINES: Sure. This is from Ken regarding the field review of Pinnacle subdivision and the clearing of selective trees between the Hudson River and the building lots.

MR. MENNERICH: At our site visit on Saturday we visited the site. Basically they're under a stop work order so they can't clear anything, even dead or small trees, under ten inches in diameter. There's some of that type of clearing they still want to do. We also got the sense they want to clear more than that. It was suggested to them that before they do anything like that that they should mark all the trees and have the group that's been out there before, Ed, Pat, Karen and myself, go out and see what they are proposing.

MR. O'DONNELL: That was the deal, wasn't it?

MR. HINES: Yeah. He's aware of that. I was able to speak to Mark Krysberg after you folks met with him. He wants to get back to the original approval. I think we need to be careful

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with him as to what a non-native species is because that's been stretched.

CHAIRMAN EWASUTYN: He defined that more clearly. He sent us a letter which we just got. You won't have a copy of it. Jerry received it. We got a letter from Jerry. Again, I think the most important thing is someone make contact with him and have an understanding -- I guess what is he supposed to be doing now? Read the letter.

MR. MENNERICH: On November 14th he sent a letter to John saying at this juncture we would like permission to complete removing the trees growing on the slope that are allowed to be removed according to the Planning Board regulations. After we remove those trees that are under ten inches, we'll then flag any remaining trees that we would like to remove so that they can be inspected.

MR. HINES: We need to be very careful of that term non-native species. That's been stretched to the limit and every tree has been called a Norway Maple.

MS. ARENT: I thought that the last --

1  
2 since he overcut that we agreed instead of asking  
3 him to put more trees back that he couldn't cut  
4 any more except selected trees according to where  
5 the houses were.

6 MR. HINES: His contention is that he  
7 hasn't done the work he was previously allowed to  
8 do on the northern portions of site where he was  
9 stopped. He wants to go back and do the  
10 original --

11 MR. O'DONNELL: That's where he cut  
12 most of the trees down.

13 MR. MENNERICH: He had the nerve to say  
14 that those trees were not healthy.

15 MR. HINES: That's the problem. I  
16 think we need to stick to the ten-inch rule  
17 regardless of species or health. That's  
18 something we can't go in the field after the fact  
19 and say -- you can't measure the stump of a  
20 thirty-six inch tree and say well it was an  
21 unhealthy tree or an indigenous species.

22 MR. BROWNE: One of the other things he  
23 said when we were there is he has people looking  
24 at the lots in the clearcut area but they want to  
25 see the view over there.

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MR. HINES: There's provisions to allow that to happen once the houses are sited realizing someone may put a spectacular bay window in somewhere and want that view. There's provisions in what we approve to allow that to occur with the approval of Jerry and Karen I believe.

MR. BROWNE: My impression was that he wanted to actually -- he wanted to do what he could legally do now but he's looking to cut more out to satisfy the people that want to buy.

MR. O'DONNELL: We had a conversation with him that stressed what legally he could do now. Our conversation with him was pretty straightforward, if you want to cut any more trees down you have to get the permission from us to do that.

MS. ARENT: Right.

MR. O'DONNELL: That's what we told him.

MR. HINES: His letter says he wants to go back to the old plan. It's easy to wrap a ribbon around an eight-inch diameter tree, or a whole bunch of eight-inch diameter trees.

PINNACLE SUBDIVISION

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MS. ARENT: I don't think there's a lot of that left.

MR. HINES: As you go way north on the site.

MR. BROWNE: That was the direction we left, mark the trees, get a hold of whoever and you guys can come back.

MR. O'DONNELL: We'll do that.

CHAIRMAN EWASUTYN: Who wants to get a letter off to him to set up this inspection? I'll leave that up to the four of you. How do you want to manage that?

MS. ARENT: I'll do it.

MR. O'DONNELL: Karen.

MS. ARENT: I'll e-mail everybody and find a good day and I'll call him and then send him a letter.

(Time noted: 9:58 p.m.)

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

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DATED: November 23, 2007



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

----- X

In the Matter of

DRISCOLL SUBDIVISION  
(2005-46)  
F.E.I.S.

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:58 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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CHAIRMAN EWASUTYN: Mike, what would be the motion this evening? We received the Driscoll F.E.I.S. Should we add to the record that we received that? Is that necessary?

MR. DONNELLY: You certainly could. You have a time period, I forget what it is, after it's delivered. It's always your duty to do it. Note that you received it tonight, ask your consultants to give you recommendations on it.

Ross brought another item to my attention that we might want to factor in to that discussion. I don't know if he talked to anybody else.

CHAIRMAN EWASUTYN: I think he talked to me about it. Is that the one --

MR. DONNELLY: The pedestrian --

CHAIRMAN EWASUTYN: Let me stick with this first and then we'll go with that.

I'll move for a motion to acknowledge receipt of the Driscoll F.E.I.S. and have our consultants begin to review it and to set it for an agenda item on the 3rd of January because that's what Ross was looking for.

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MR. MENNERICH: So moved.

MR. BROWNE: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you, Mike. Please bring us along.

MR. DONNELLY: I got an e-mail from him. I know he had spoken to John as well. What he said is originally there was a right-of-way at Circle Lane that fronts on the Driscoll property so that the pedestrian walk can connect public space to public space. Although the survey showed that frontage, when he did further survey work he found out that the connection is only a connection at a single point, a point with no

1  
2 width, therefore there's no real access across  
3 it. It appears that there's a small sliver of  
4 property between Circle Lane and the Driscoll  
5 property. It's still owned by Kroll. It was  
6 never dedicated to the Town. He wants to know  
7 what we think he should do about it. I would  
8 think one suggestion is to see whether he can  
9 acquire the property, otherwise I think -- the  
10 reason why I raise it at the same time as the  
11 F.E.I.S. is one of the conclusions and benefits  
12 of the project was that pedestrian access way.  
13 that will really not work except through  
14 trespass, and that might well happen if you bring  
15 the two that close together. I don't know that's  
16 the right solution. Maybe we should suggest he  
17 contact Kroll.

18 MR. HINES: He should investigate  
19 ownership. There may be no one paying taxes on  
20 it.

21 CHAIRMAN EWASUTYN: Okay. At what  
22 point do we finalize that in the F.E.I.S., or do  
23 we do that in the Findings Statement?

24 MR. DONNELLY: I think it's got to be  
25 resolved. Either we're going to do without the

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pedestrian access way or he's found a way to  
acquire the interest. I'll send him an e-mail to  
say we think you should investigate acquiring an  
easement for public access for a fee ownership,  
and if you can't you're going to have to amend  
your F.E.I.S. and the Board is going to have to  
take that up as a policy matter.  
(Time noted: 10:03 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: November 23, 2007

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

----- X  
In the Matter of

LANDS OF WEBER

Sign-off letter from Orange County Planning Department

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 10:03 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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

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CHAIRMAN EWASUTYN: There's one other item, Dina.

MS. HAINES: We received a sign-off for the lands of Weber from the Orange County Planning Department on November 6th. We want to set up an action to declare a negative declaration and set a public hearing for January 17, 2008.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. BROWNE: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Cliff Browne. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So

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carried.

(Time noted: 10:04 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: November 23, 2007



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

----- X

In the Matter of

DRURY HEIGHTS  
(1994-41)  
Stipulation of Settlement

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 10:05 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
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MR. DONNELLY: One other matter. Do you remember at the last meeting we talked about the Drury Heights stipulation of settlement in so far as it affected the Planning Board it had a tight timetable for submission for your review and an even tighter timetable for the consultants? I think we talked that through and we were satisfied with it.

There have been some additional changes since but they were simply things that involved the Town Board and the developer. Mark called me late this afternoon to say last night the Town Board voted to authorize entry into that stipulation. The Planning Board was named in the lawsuit. I'm not the attorney representing you but I have been in touch with him. The stipulation requires we also sign off.

I would suggest, given our discussion at the last meeting, that you vote to authorize the Chairman to sign the stipulation so it can be filed with the court.

MR. GALLI: John, I have a question on that. That's Exiter? The other group, I see correspondence --

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MR. HINES: It's Drury Heights.

MR. DONNELLY: This is Drury Heights.

MR. GALLI: We have other information on Lane DeMuro.

MR. HINES: That is the one you're talking about. It's called Star Light Development.

MR. GALLI: He's the guy that sued and won.

MR. DONNELLY: Actually they sued and the lawsuit has never been answered but they settled. Exiter sued and won.

MR. GALLI: They're both coming forward together now?

MR. DONNELLY: Apparently they have had some discussions about the resolution. I'm told that the Town has now given Exiter notice that they intend to rezone the property yet again and Exiter is now going to try to race the Town to see if they can get their other agency approvals before the Town can rezone. It's the kind of scenario that's not comfortable for you because you have to follow business as usual without either delaying or expediting it and they're

1  
2 working toward that. We had a meeting to go over  
3 some of the outstanding issues the other day.  
4 MR. GALLI: Every time I see that  
5 project it's confusing who's got the right and  
6 who doesn't have the right.  
7 MR. DONNELLY: They both benefited from  
8 the court's decision because the court's decision  
9 struck the ordinance amendment but Drury Heights  
10 decided that they would resolve it by agreeing to  
11 a reduced number of lots. Exiter has not seen  
12 fit to work out a similar agreement, or perhaps  
13 the Town hasn't offered as sweet a deal. I don't  
14 know.  
15 MR. O'DONNELL: Can I just ask a  
16 question? I'm a very simple guy. Drury Heights,  
17 we got sued, we were part of the lawsuit?  
18 MR. DONNELLY: Yes.  
19 MR. O'DONNELL: Did we win or lose?  
20 MR. GALLI: Lost.  
21 MR. DONNELLY: Drury Heights has never  
22 answered.  
23 MR. HINES: They settled.  
24 MR. DONNELLY: What happened is they  
25 started their lawsuit and they immediately began

1  
2 discussing settlement with the Town Board. The  
3 lawyers that were hired through the insurance  
4 company to defend us have never put an answer in.  
5 The lawsuit is in limbo. Now it's going to be  
6 settled.

7 MR. O'DONNELL: What about Exiter?

8 MR. DONNELLY: Exiter went the distance  
9 and they won as against the Town on the argument  
10 the law was enacted improperly. They lost  
11 against us on the claim by approving the lot line  
12 change we had in fact actually approved a  
13 subdivision which then exempted them from the  
14 legal challenge. That they are appealing. The  
15 Town is appealing --

16 MR. HINES: The Town is appealing.

17 MR. DONNELLY: -- the issue they lost  
18 on.

19 MR. O'DONNELL: So your batting record  
20 is one win, no losses and a tie.

21 MR. DONNELLY: The tie wasn't me but  
22 I'll take credit for it. The insurance company  
23 defended that one.

24 MR. O'DONNELL: I always like to  
25 understand how we make out seeing how you're the

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guy.

MR. DONNELLY: The Market Place is starting -- I think they filed yet another lawsuit yesterday or the day before. I should be getting the papers shortly.

MR. GALLI: Market Place or Mid-Valley Mall?

MR. DONNELLY: Mid-Valley Mall, Newburgh Mall or whatever they're called.

MS. HAINES: Does that mean they're going to ask me for another FOIL?

MR. DONNELLY: That was to prepare this lawsuit.

MR. MENNERICH: I'll move that John can sign the stipulation.

MR. O'DONNELL: Me, too.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

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MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

I'll move for a motion to close the Planning Board meeting of the 15th of November.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes.

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

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

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

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DATED: November 23, 2007





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

----- X

In the Matter of

LANDS OF FINNIGAN  
(2007-21)

71 Fifth Avenue  
Section 70; Block 1; Lot 3  
R-3 Zone

----- X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: November 15, 2007  
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  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: MICHAEL AIELLO

----- X

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

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CHAIRMAN EWASUTYN: Good evening,  
ladies and gentlemen. I would like to welcome  
you to the Town of Newburgh Planning Board  
meeting of the 15th of November.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. O'DONNELL: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Myself present.

The Town of Newburgh Planning Board has  
experts that make recommendations to the Planning  
Board in reaching various SEQRA determinations.  
I'll ask at this time that they introduce  
themselves.

MR. DONNELLY: Michael Donnelly,  
Planning Board Attorney.

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

MR. COCKS: Bryant Cocks, Planning  
Consultant, Garling Associates.

MS. ARENT: Karen Arent, Landscape

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Architectural Consultant.

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

CHAIRMAN EWASUTYN: At this time I'd like to turn the meeting over to Cliff Browne.

MR. BROWNE: Please rise.

(Pledge of Allegiance.)

MR. BROWNE: If you have any cell phone devices, would you please shut those off now.

CHAIRMAN EWASUTYN: The first three items on the agenda this evening are public hearings. The first one we have is the lands of Finnigan. It's a public hearing for a two-lot subdivision located on Fifth Avenue in an R-3 Zone. It's being represented by Mike Aiello.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Finnigan for a two-lot subdivision on premises 71 Fifth

1  
2 Avenue in the Town of Newburgh, designated on  
3 Town tax map as Section 70; Block 1; Lot 3. Said  
4 hearing will be held on the 15th day of November  
5 at the Town Hall Meeting Room, 1496 Route 300,  
6 Newburgh, New York at 7 p.m. at which time all  
7 interested persons will be given an opportunity  
8 to be heard. By order of the Town of Newburgh  
9 Planning Board. John P. Ewasutyn, Chairman,  
10 Planning Board Town of Newburgh. Dated October  
11 11, 2007."

12 CHAIRMAN EWASUTYN: Dina Haines,  
13 Planning Board Secretary.

14 MR. HINES: The public hearing was  
15 published in The Sentinel on November 9th and in  
16 The Mid-Hudson Times on November 7th. The  
17 applicant's representative sent out thirty-five  
18 registered letters and twenty-five were returned.  
19 All the publications and mailings are in order.

20 CHAIRMAN EWASUTYN: Thank you.

21 Before I have Mike Aiello present the  
22 two-lot subdivision, Mike Donnelly, Planning  
23 Board Attorney, will explain to the public where  
24 we are in the process and the purpose of a public  
25 hearing.

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MR. DONNELLY: In each of the matters that are on for public hearings tonight the applicant has been before the Board on prior occasions refining his plan. The public hearing is held so that before the Planning Board takes action on the plan, you, the public, have an opportunity to address the Board. The idea is for you to bring matters to the attention of the Planning Board that it may not itself be aware of, either through the members of the Board or through the consultants. After the presentation is given in each case by the applicant's representative, the Chairman will ask those who wish to speak to raise their hand. When you're identified I would ask you to please give us your name, spell it for our Stenographer so we get it down correctly, come forward, that microphone isn't on, and direct your comments to the Board. If you have questions and they're ones that can be easily answered, the Chairman will direct the question either to the applicant's representative or to one of the consultants employed by the Town.

CHAIRMAN EWASUTYN: Thank you.

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Mike.

MR. AIELLO: Mr. Chairman, Board, this is a proposal for a two-lot subdivision. The parcel is located at 71 Fifth Avenue here in the Town of Newburgh in an R-3 Zone. It's a three-acre parcel. The proposal is to subdivide it into approximately a two-acre lot, which will include the existing dwelling, and approximately a one-acre lot.

The parcel is in the water and sewer district. Application has been made through the Town of Newburgh to the City of Newburgh for sewer connection. It is served by water and sewer.

Fairly straightforward, fairly simple. It meets all the zoning requirements.

CHAIRMAN EWASUTYN: Thank you. Is there anyone here this evening who has any comments or questions on the proposal before us?

(No response.)

CHAIRMAN EWASUTYN: Mike, you had said something in your presentation and I don't have it in our records. Did you write to Jim Osborne as far as --

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MR. AIELLO: Yes.

CHAIRMAN EWASUTYN: You did. You did get a response back?

MR. AIELLO: No. We called him approximately a week ago and Jim said it takes some time. That was his only response to us.

CHAIRMAN EWASUTYN: Okay. I didn't realize I had a copy of that letter. Were we cc'd on that letter to Jim Osborne, do you know?

MR. AIELLO: I presume you were but if you weren't we'll gladly give it to you.

CHAIRMAN EWASUTYN: Thank you. That was really the only outstanding issue we seem to have on this, the City flow acceptance letter.

MR. AIELLO: I'll review the file. I'll give Dina one tonight if that's okay.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant, your final comments.

MR. HINES: Our comments have been addressed. The topography has been added on the plans. The grading is shown for the driveway. The standard details for water and sewer have been added.

We have no outstanding comments other



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than that flow acceptance letter.

CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

MR. COCKS: We reviewed the plans and  
we have no further comments. The applicant has  
met all zoning regulations and we have nothing  
further.

CHAIRMAN EWASUTYN: Comments from Board  
Members?

MR. GALLI: No additional.

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Is there anyone  
here this evening from the public hearing for the  
lands of Finnigan?

(No response.)

CHAIRMAN EWASUTYN: Okay. At this time  
I'll move for a motion from the Board to close  
the public hearing for the two-lot subdivision  
for the lands of Finnigan.

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?

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(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

At this point I'd like to turn to Planning Board Attorney Mike Donnelly for his recommendation.

MR. DONNELLY: The contract that exists between the City of Newburgh and the Town of Newburgh governing the acceptance of sewer flows from the Town into the City prohibits the Planning Board from issuing final approval for any project that has not received the consent from the City for the acceptance of the flows. It does not prohibit, under the circumstances of this matter, the granting of a preliminary approval. So until that letter is received we can only grant a preliminary approval, therefore

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I suggest the resolution should state that that letter will need to be obtained before final approval can be granted. The only condition that will exist as part of that final approval will be the payment of parkland fees as required by the Code. I would suggest that you can add that to the agenda as an administrative item as soon as the letter is received.

CHAIRMAN EWASUTYN: Any questions about that, Mike?

MR. AIELLO: No, sir. I understand that the only requirement for final other than the payment of the fees is the letter from the City of Newburgh. Is that correct?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Having heard the conditions from Mike Donnelly, Planning Board Attorney, to grant preliminary approval -- to actually further this action, once you receive a City flow acceptance letter we'll bring this under Board business -- from the City of Newburgh. I'll move for that motion.

MR. BROWNE: So moved.

MR. GALLI: Second.

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2 CHAIRMAN EWASUTYN: I have a motion by  
3 Cliff Browne. I have a second by Frank Galli.  
4 Any discussion of the motion?  
5 (No response.)  
6 CHAIRMAN EWASUTYN: I'll move for a  
7 roll call vote starting with Frank Galli.  
8 MR. GALLI: Aye.  
9 MR. BROWNE: Aye.  
10 MR. MENNERICH: Aye.  
11 MR. O'DONNELL: Aye.  
12 MR. PROFACI: Aye.  
13 CHAIRMAN EWASUTYN: Myself yes. So  
14 carried.  
15 MR. AIELLO: Point of clarification,  
16 Mr. Chairman.  
17 CHAIRMAN EWASUTYN: Yes.  
18 MR. AIELLO: Are we to return to this  
19 Board at a meeting for final?  
20 CHAIRMAN EWASUTYN: No. We'll act to  
21 set it up as a Board business item once we  
22 receive the City flow acceptance letter.  
23 MR. AIELLO: Okay.  
24 CHAIRMAN EWASUTYN: We'll notify you  
25 that it is Board business if you would like to be

LANDS OF FINNIGAN

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present. We'll still memorialize it in a letter, the action, and get it off to you. We will notify you when it is a Board business item.

MR. AIELLO: Okay.

CHAIRMAN EWASUTYN: Just for the record, not tonight, you can e-mail Dina your letter to the City -- to Jim Osborne. We didn't seem to have a copy of that.

MR. AIELLO: I was going to give her a copy tonight.

CHAIRMAN EWASUTYN: Thanks.

(Time noted: 7:10 p.m.)

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

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

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DATED: November 23, 2007

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

- - - - - X

In the Matter of

LANDS OF ADAMO  
(2004-03)

Fostertown Road east of Nelson Drive  
Section 43; Block 1; Lots 1.31, 16 & 17  
R-2 Zone

- - - - - X

PUBLIC HEARING  
FOUR-LOT SUBDIVISION & LOT LINE CHANGES

Date: November 15, 2007  
Time: 7:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

- - - - - X

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

1  
2 CHAIRMAN EWASUTYN: The next item we  
3 have is a public hearing for a four-lot  
4 subdivision and lot line change for the lands of  
5 Adamo. It's located on Fostertown Road east of  
6 Nelson Drive, it's zoned R-2 and it's being  
7 represented by Ken Lytle.

8 I'll ask Mr. Mennerich to read the  
9 notice of hearing.

10 MR. MENNERICH: "Notice of hearing,  
11 Town of Newburgh Planning Board. Please take  
12 notice that the Planning Board of the Town of  
13 Newburgh, Orange County, New York will hold a  
14 public hearing pursuant to Section 276 of the  
15 Town Law on the application of lands of Adamo for  
16 a four-lot subdivision on premises Fostertown  
17 Road east of Nelson Drive in the Town of  
18 Newburgh, designated on Town tax map as Section  
19 43; Block 1; Lots 1.31, 16 and 17. Said hearing  
20 will be held on the 15th day of November at the  
21 Town Hall Meeting Room, 1496 Route 300, Newburgh,  
22 New York at 7 p.m. at which time all interested  
23 persons will be given an opportunity to be heard.  
24 By order of the Town of Newburgh Planning Board.  
25 John P. Ewasutyn, Chairman, Planning Board Town



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of Newburgh. Dated October 16, 2007."

CHAIRMAN EWASUTYN: Thank you.

Dina Haines, Planning Board Secretary.

MS. HAINES: The notice of hearing was published in The Sentinel on November 9th and in The Mid-Hudson Times on November 7th. The applicant's representative sent out twelve registered letters, eleven were returned. The publications and mailings are all in order.

CHAIRMAN EWASUTYN: Thank you.

Mr. Lytle, would you give your presentation, please.

MR. LYTLE: Good evening. What we're proposing is a subdivision of an existing parcel of land of approximately six acres. It's composed of three individual section, block and lots. One has an existing residence which is located along Fostertown Road currently.

During this process a private road would be constructed approximately 250 foot long giving access to four lots in the rear of the parcel.

Septic systems have been designed according to Code. Wells are proposed.

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We met with the County and we have the County approval for the road entrance, location and sight distances.

If the Board has any additional comments.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to the public. If there's anyone here this evening who has any comments, would you please give your name and address.

DR. TOJINO: Good evening. My name is Dr. Conrado Tojino and I live -- we basically own the property 39 to 40 Nelson Drive. I appreciate you allowing me to speak tonight. There's been a concern since we got this letter. My wife and I basically bought the property because of the wonderful privacy that we have, and our property line basically abuts the back of his property there. Exactly. There basically was a bluff or some pine trees or evergreen trees that basically came all across that whole back of the property line. It was basically established in 1984 when the original owners planted these trees, so they're over twenty years old. They provided quite a privacy for us and we didn't see his

1  
2 property at all. Over a year ago he, Mr. Adamo,  
3 hired somebody to cut the bottoms of these trees  
4 for some unknown reason. The person that lives  
5 on 40 Nelson Drive approached Mr. Adamo and asked  
6 him to stop doing this and he refused to do it  
7 and continued to have his person cut the bottoms  
8 of the trees. As a result many of the trees died  
9 and we basically lost this bluff or privacy tree  
10 fence that we had.

11 If you wouldn't mind, I'd like to just  
12 submit some pictures for you to view. Would that  
13 be okay?

14 CHAIRMAN EWASUTYN: It's not really a  
15 policy to submit something the night of the  
16 meeting, but go ahead.

17 DR. TOJINO: Basically this is -- if I  
18 can just pass this to you. This is basically the  
19 trees that were not cut. This is where he  
20 started cutting the trees. You can see that some  
21 of the fence -- basically some of the trees died.  
22 This is more of the bluff. This is Mr. Adamo's  
23 property right here with some of the trees gone.  
24 You can see right into his property. You can see  
25 -- I have quite a few pictures here but you can

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clearly see right into the property. I'll just pass these. I have about ten pictures if you would like to look at them. So it clearly impacts our privacy, especially when they're going to be putting three houses right adjacent to it.

What we respectfully request is that the Planning Board seriously consider and request Mr. Adamo to replace our privacy by planting more trees and creating that bluff for us again. At the time that he did this we were not in ownership of the property, it was actually under Root, Edith Root. She also was concerned about this and has a letter here concerning -- giving her concerns about it. I think, you know, the concern overall is that our privacy is going to be significantly reduced because of the cutting down of these trees or bottoms of the trees. So I was just hoping that you would consider this.

CHAIRMAN EWASUTYN: For the record do you want to read Edith Root's statement?

DR. TOJINO: Yes. It says, "Town of Newburgh Planning Board. I would like to go on record as the owner of 40 Nelson Drive at the

1  
2 time Mr. Adamo sent the crew in to remove and  
3 trim evergreen trees which were on our property  
4 line. These trees were planted as a screen  
5 between properties when my parents first built  
6 their home here in 1984 to 1985. A survey showed  
7 that not only has the crew cut on our property  
8 but they had cut and trimmed trees which were  
9 ours. I share concern with my mother, Ms. Mary  
10 Passenger who has life tenancy on this property  
11 about someone who had already broken the law and  
12 showed no respect for legal boundaries.  
13 Sincerely, Edith Passenger Root."

14 I would also like to go on record that  
15 we would just like to keep our privacy and we  
16 would like to make sure that none of the  
17 construction enters our road and comes onto our  
18 property as well.

19 It's also a concern about the wells.  
20 It is a well.

21 MR. LYTLE: Wells are proposed, yes.

22 DR. TOJINO: The impact of the wells  
23 that will be on us because we also have well  
24 water, and this could also significantly impact  
25 our well system. Thank you.

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2 CHAIRMAN EWASUTYN: You're welcome.  
3 Additional comments from the public?  
4 (No response.)  
5 CHAIRMAN EWASUTYN: Comments from Board  
6 Members. Frank Galli?  
7 MR. GALLI: Why were the trees taken  
8 down, Ken?  
9 MR. LYTLE: I have no idea.  
10 MR. GALLI: Do you have any idea?  
11 MR. LYTLE: No. Again, it wasn't part  
12 of anything we're presenting tonight.  
13 MR. GALLI: I was just curious. It's a  
14 beautiful piece of property and had beautiful  
15 trees it looked like at one time.  
16 MR. LYTLE: I really don't know.  
17 CHAIRMAN EWASUTYN: Cliff Browne?  
18 MR. BROWNE: The trees in question were  
19 on both properties?  
20 DR. TOJINO: They are right on the  
21 property line.  
22 MS. TOJINO: There were two trees that  
23 were on --  
24 CHAIRMAN EWASUTYN: For the record  
25 ma'am, your name?

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2 MS. TOJINO: Samantha Tojino. They  
3 were slightly on his property and the other trees  
4 were all on our property.  
5 MR. BROWNE: Okay.  
6 CHAIRMAN EWASUTYN: Ken Mennerich?  
7 MR. MENNERICH: No questions.  
8 CHAIRMAN EWASUTYN: Ed O'Donnell?  
9 MR. O'DONNELL: Dr. Tojino, how many  
10 trees were cut down?  
11 DR. TOJINO: I'm sorry?  
12 MR. O'DONNELL: How many trees were  
13 affected by this?  
14 DR. TOJINO: At least I think about  
15 fifteen trees.  
16 MR. O'DONNELL: Fifteen. They died or  
17 he removed them?  
18 DR. TOJINO: Probably about a third of  
19 them died and the rest of them became very sick  
20 and very thin and, you know, they basically lost  
21 their full volume.  
22 MR. O'DONNELL: So Karen, what can we  
23 do here to have an appropriate buffer?  
24 MR. DONNELLY: Let me say first we  
25 don't have -- let's pretend there weren't any

1  
2 trees to begin with. There's no requirement of  
3 our Ordinance for a developer to provide any kind  
4 of screening, at least not between residential  
5 properties and residential properties. We have  
6 provisions between commercial and residential.  
7 Therefore it's not generally your power to  
8 require plantings. I think likewise it's not  
9 really your jurisdiction to require replantings.  
10 If trees were cut down on other people's  
11 property, the law provides a private right of  
12 redress through the courts to remedy that.  
13 That's essentially what I think you're  
14 explaining, a private wrong. The Planning Board  
15 deals with the public and the rights of land  
16 owners as set forth in the Ordinance. While I'm  
17 not minimizing your concern and how it has  
18 damaged what was the pristine state of the land,  
19 it is not really a Planning Board issue unless  
20 the Town Board gives the authority to require  
21 screening between residential properties.

22 MR. GALLI: Is there a limit to the  
23 number of trees that can be cut down on a piece  
24 of property at one time?

25 MR. HINES: In the clearing and grading



1 ordinance, but it's quite a number based on trees  
2 per acre.  
3

4 MR. LYTLE: Most of this was actually  
5 grass at one time. I guess there were trees  
6 around the perimeter.

7 MR. O'DONNELL: If I can finish my  
8 thought.

9 MR. DONNELLY: Sure.

10 MR. O'DONNELL: My intention was not to  
11 provide a directive to Mr. Adamo or anyone else  
12 but to find out how many trees were removed, how  
13 many were damaged and ask the developer to  
14 mitigate that in some fashion, whatever he might  
15 agree to. I know we can't tell him to do it.

16 Kenny, I would like you to have that  
17 conversation with Mr. Adamo to see if he could  
18 soften the blow on this.

19 MR. LYTLE: I can ask him.

20 MR. O'DONNELL: Just ask him. That's  
21 all. We can't tell you to do it. It seems like  
22 perhaps the neighborly thing to do.

23 MR. LYTLE: I'll express your concern  
24 regarding it. If there's some trees over the  
25 line, again it's a legal matter.

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MS. ARENT: If you want suggestions of plant materials just give me a call.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you John.

CHAIRMAN EWASUTYN: As a matter of record, I drove up the driveway and I found the location of the two homes setting on your property, looked at the trees coming down. I have a sense of balance between both properties. In trying to find the balance between both the distance from where your home sits and where these trees are, basically the visual impact -- I say it respectfully, the impact would become greater when you're coming down the driveway. Do you then see into the rear of these properties? Do you then see into the rear yard of the home that has all the cars? There seems to be an abundance of cars in the rear yard of one of the homes. With the one house on the knoll that's being remodeled, there are some fairly stately evergreen trees that screen that rear yard from looking down. So whatever the balance may be. I think as Mr. O'Donnell said, there would be a balance as far as the willingness of Mr. Adamo to

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maybe assist you. Just from looking at it.

Pat Hines, Drainage Consultant?

MR. HINES: We reviewed the project with regard to the wells and septic systems and wells meet the requirements of the Public Health Law. They've been designed in accordance with the applicable requirements with regard to separation distance and sizing of each of them.

The private roadway has been provided with dry swales for water quality impacts and the County Department of Public Works has agreed to accept the runoff from that private road into the existing County drainage system. The Planning Board has that letter of approval for the private road and those drainage structures. Based on that they've addressed our previous comments.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Yes. We only had two comments that the applicant addressed. One was a note there would be no disturbance of stonewalls on the site and the other was just a driveway clean-up item on lot 3.

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After hearing Mr. Tojino's comments and looking at the plans, I would just ask is there any reason why the house on lot 1 is set so far back?

MR. LYTLE: Based on the septic location. It can be pulled forward. They are allowed to build anywhere in the setback.

MR. COCKS: I know. It may mitigate the impact.

MR. LYTLE: We can slide that forward.

CHAIRMAN EWASUTYN: Good point.

MR. COCKS: That was about it, though.

CHAIRMAN EWASUTYN: Ed O'Donnell, I think you have an additional question.

MR. O'DONNELL: Pat, Dr. Tojino mentioned the wells. Can you comment on that?

MR. HINES: I can. It's always difficult to determine potential impacts between wells. The Zoning Ordinance that you have envisions lot sizes of appropriate size to support both on-site water and septic systems with the -- I believe it's one-acre zoning in this area. The lots are slightly larger than that. The separation distances between these

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2 wells would lead me to believe there wouldn't be  
3 impacts between the wells and they should not be  
4 under the influence of each other drawing down  
5 the water table. Again, there's no crystal ball  
6 in saying that impact will or will not happen. I  
7 wish there was. The amount of water that falls  
8 on one acre of land in an average year here far  
9 exceeds the water use anticipated from a  
10 single-family residential house, so there should  
11 be adequate recharge between each of the  
12 residential lots to support them. In addition,  
13 most of the water used in a residential home is  
14 returned through the ground through the septic  
15 system. I don't want to call it recycling but  
16 there is that aspect there. The water is not  
17 transported out of the area but put back into the  
18 ground. That's the best I can address it.  
19 There's no guarantees.

20 MR. O'DONNELL: Thank you.

21 CHAIRMAN EWASUTYN: Additional comments  
22 from the public?

23 (No response.)

24 CHAIRMAN EWASUTYN: Ken, you think you  
25 could meet out in the field? Is there a

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possibility to meet out in the field?

MR. LYTLE: That's not a problem.

CHAIRMAN EWASUTYN: I'll see if the Board wants to agree that you would meet out in the field with Karen Arent, our Landscape Architect, to see if there is any possibility of agreement for softening the visual impact. Would the Board move for that motion?

MR. O'DONNELL: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ed O'Donnell.

MR. GALLI: Second.

MR. MENNERICH: Just under discussion on that. Since it's residential property to residential property, should there be a consideration of sharing in the cost of that?

MS. ARENT: I think we should just ask the developer if he's willing to do it. If he is then that would be fine, otherwise I don't know what the Board -- how to do that.

CHAIRMAN EWASUTYN: Would you be willing to contribute if it became a negotiating point for whatever may be considered for installation of trees?

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2 MS. TOJINO: I don't really feel like  
3 it's fair to us to have to do something like that  
4 since the comment was made to an 86-year old lady  
5 at the time the trees were cut, when she  
6 respectfully asked them why they were cutting the  
7 trees and he said to her well I thought you  
8 wanted to see me and she said I don't believe  
9 we've met and that was it. She was very upset by  
10 that.

11 We value our privacy. When we moved up  
12 here that was the thing that drew us to the area.  
13 We had a first right of refusal agreement between  
14 Mrs. Passenger and ourselves -- Edith Root and  
15 ourselves before this had taken place. So it  
16 indirectly did impact us when it was happening.  
17 It concerns me because I have a son and a child  
18 on the way and the privacy that -- we use that  
19 driveway with their bicycles and everything and  
20 it is now gone. You can drive down Fostertown  
21 Road and see directly up that hill to our  
22 property where before you weren't able to see  
23 that. I like to jog out there myself. As a  
24 woman on a long driveway by myself I feel  
25 concerned. I have to carry my cell phone now

1  
2 that. My safety has been affected with all those  
3 trees being gone. I just don't think it's fair.  
4 We didn't ask him to do that, he took it upon  
5 himself. So we would have to share in the  
6 expense of replenishing it?

7 CHAIRMAN EWASUTYN: I think the  
8 question is they'll meet out in the field. If  
9 Mr. Adamo has a willingness to provide some kind  
10 of privacy, then that I think -- according to our  
11 Attorney, Mike Donnelly, that's the maximum we  
12 can take, otherwise it becomes a civil matter.

13 Is that not correct, Mike?

14 MR. DONNELLY: Yes.

15 MS. TOJINO: I would like for him to be  
16 a good person and do the right thing by us.  
17 Hopefully he'll do that. Where I'm from we shake  
18 hands and we do things like that. I don't know,  
19 you know, if it will go that route with him. I  
20 hope he will. I understand that you can't impose  
21 for him to do something like that but, you know,  
22 if he's willing to put that wall back or to put  
23 that barrier back in some respect I would be  
24 happy. I'm sure we would be happy with that. As  
25 long as our privacy is restored, that's the main



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thing we're concerned about.

CHAIRMAN EWASUTYN: Any further discussion?

(No response.)

CHAIRMAN EWASUTYN: Okay. I have a motion by Ed O'Donnell. I have a second by Frank Galli I believe. Correct?

MR. GALLI: Mm'hm'.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Nay.

CHAIRMAN EWASUTYN: Aye. We have a majority.

If you would arrange with Karen to meet out in the field with Mr. Adamo and see what you can arrange.

MR. LYTLE: Being a minor point whether he's going to agree to it or not, is it possible to go ahead for final approval?

CHAIRMAN EWASUTYN: Oh, yeah. As

1  
2 Samantha, and I apologize for using your first  
3 name but I do that all the time with people, she  
4 believes a handshake agreement. At the same time  
5 we can't twist arms. We're not in a position to  
6 twist arms. We're looking for a mutual  
7 agreement. We will act on an action on this and  
8 hope that there could be a meeting of the minds.  
9 MR. LYTLE: Would the meeting be set up  
10 through us or through the Planning Board?  
11 CHAIRMAN EWASUTYN: I think between  
12 yourself and Karen.  
13 MR. LYTLE: That's fine. We'll talk  
14 after and get phone numbers.  
15 MS. ARENT: We just have to meet --  
16 just Ken and I in the field.  
17 MR. LYTLE: That's fine.  
18 CHAIRMAN EWASUTYN: I'll move for a  
19 motion from the Board -- are there any additional  
20 comments from the public before I move for a  
21 motion to close the public hearing?  
22 (No response.)  
23 CHAIRMAN EWASUTYN: Thank you. At this  
24 time I would like to move for a motion to close  
25 the public hearing for the four-lot subdivision

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2 and lot line change for the lands of Adamo.  
3 MR. MENNERICH: So moved.  
4 MR. GALLI: Second.  
5 CHAIRMAN EWASUTYN: I have a motion by  
6 Ken Mennerich. I have a second by Frank Galli.  
7 Any discussion of the motion?  
8 (No response.)  
9 CHAIRMAN EWASUTYN: I'll move for a  
10 roll call vote starting with Frank Galli.  
11 MR. GALLI: Aye.  
12 MR. BROWNE: Aye.  
13 MR. MENNERICH: Aye.  
14 MR. O'DONNELL: Aye.  
15 MR. PROFACI: Aye.  
16 CHAIRMAN EWASUTYN: Myself yes. So  
17 carried.  
18 I'll turn to Mr. Donnelly, Planning  
19 Board Attorney, for conditions of approval.  
20 MR. DONNELLY: This will be a final  
21 approval resolution. The Orange County  
22 Department of Public Works will issue a highway  
23 work permit for the roadway connection. There is  
24 a requirement of a private roadway easement and  
25 maintenance agreement and a common driveway

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2 easement and maintenance agreement. I've already  
3 been provided with copies of each. They are  
4 satisfactory but they'll need to be recorded as  
5 part of the process of approval. There will be  
6 the need for a private road security and  
7 inspection fee and payment of fees in lieu of  
8 parkland.

9 CHAIRMAN EWASUTYN: Thank you. Having  
10 heard the conditions of approval for the four-lot  
11 subdivision and lot line change for the lands of  
12 Adamo, I'll move for that motion.

13 MR. PROFACI: So moved.

14 MR. MENNERICH: Second.

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

18 (No response.)

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

21 MR. GALLI: Aye.

22 MR. BROWNE: Aye.

23 MR. MENNERICH: Aye.

24 MR. O'DONNELL: Aye.

25 MR. PROFACI: Aye.

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CHAIRMAN EWASUTYN: Myself yes. So  
carried.  
Thank you for attending.  
(Time noted: 7:32 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: November 23, 2007

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

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In the Matter of

SODANO SUBDIVISION  
(2007-25)

Forest Road  
Section 3; Block 1; Lot 33.1  
AR Zone

----- X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: November 15, 2007  
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  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHAL

----- X

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

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CHAIRMAN EWASUTYN: The following item of business this evening is the Sodano subdivision. It's a public hearing for a two-lot subdivision located on Forest Road in an AR Zone. It's being represented by Lawrence Marshal.

Mr. Mennerich will read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Sodano subdivision for a two-lot subdivision on premises Forest Road in the Town of Newburgh, designated on Town tax map as Section 3; Block 1; Lot 33.1. Said hearing will be held on the 15th day of November at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated October

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11, 2007."

CHAIRMAN EWASUTYN: Thank you.

Dina Haines, Planning Board Secretary.

MS. HAINES: The notice of hearing was published in The Sentinel on November 9th and in The Mid-Hudson Times on November 7th. The applicant's representative sent out six registered letters and five were returned. The publications and mailings are all in order.

CHAIRMAN EWASUTYN: Thank you.

Mr. Marshal, would you give your presentation please.

MR. MARSHAL: Sure. The proposed subdivision is a two-lot subdivision located on the easterly side of Forest Road in the AR Zoning District. The proposed subdivision will involve the creation of two buildings lots. The two building lots will be served by a single common driveway entrance off of Forest Road. The two lots are proposed to be 9 acres and -- approximately 9 acres and approximately 11.5 acres. They'll be served by individual wells and septic systems.

CHAIRMAN EWASUTYN: Thank you.



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Comments from the public, please.

MR. DELLANNO: Nick Dellanno. There's several maps. My line goes in the middle of the lane but I think on this one it's over about 500, 600 feet. My deed reads the center of the lane. The center. That's not in the center as far as I can see. How many feet -- could I ask you a question?

MR. MARSHAL: Sure. If the Board --

CHAIRMAN EWASUTYN: Go ahead.

MR. DELLANNO: How many feet is it from the stonewall fence to the center of the lane?

MR. MARSHAL: From the far stonewall fence?

MR. DELLANNO: The first one is 16 1/2 feet on top; right? 16 1/2 feet?

MR. MARSHAL: Without a scale I can't tell you exactly.

MR. DELLANNO: Does it say 16 1/2?

MR. MARSHAL: Well, there is a metes and bounds course distance that's 16 1/2 feet, yes.

MR. DELLANNO: Then you go down further. Can you tell if it's squeezed in up

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around 516?

MR. MARSHAL: The stonewall is not perfectly straight.

MR. DELLANNO: Right. But the lane should be straight I think. My deed reads and the deeds back to 1927, all those deeds in between all read from the center of the lane. That's not in the center of the lane.

UNIDENTIFIED SPEAKER: If I may --

CHAIRMAN EWASUTYN: Wait, wait. No, you may not. One person at a time speaks. Thank you.

MR. DELLANNO: I have deeds here reading from the center of the lane and that line isn't in the center of the lane.

MR. MARSHAL: The survey was completed by a licensed land surveyor. Unfortunately he is not here tonight -- this evening. I believe that he spoke to you in our office. He has placed his seal on the map certifying the location of the out bounds of the property.

CHAIRMAN EWASUTYN: Mike Donnelly.

MR. DONNELLY: If we have that survey -- it's not impossible and it's not unheard of to

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have two surveys that if the same surveyor read them together would determine that they overlap, but it is not the Planning Board's job to resolve that. We require a licensed surveyor present a plan and we rely upon that.

MR. DELLANNO: I have to commend him. He got some of my property back from the last approved survey which was '05. The last approved survey took away my right-of-way and part of my land and part of the lane. I have the map here. Now he straightened it out. So I have to commend that part.

The only question I have is it's being squeezed up about 6 feet from the center of the lane. In other words, these deeds read center of the lane . All the way back to 1927 and all the deeds in between read center of the lane.

The next property, which was my aunt's, her deed also reads center of the lane. Lot line center of the lane. Now I don't see it that way.

CHAIRMAN EWASUTYN: Do you understand what Mike Donnelly has just said as far as a licensed surveyor?

MR. DELLANNO: Right.

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CHAIRMAN EWASUTYN: And his license, I think Mike, you're saying is on the line if he certifies this to be the truth.

MR. DELLANNO: Okay. All right. And this survey in '05 was a licensed surveyor also.

CHAIRMAN EWASUTYN: Right.

MR. DELLANNO: He has something different.

CHAIRMAN EWASUTYN: Right.

MR. DELLANNO: I don't know if you want to see that.

CHAIRMAN EWASUTYN: Unless you --

MR. DELLANNO: There's two different maps here.

CHAIRMAN EWASUTYN: Mike, do you want to --

MR. DONNELLY: We don't decide survey disputes. If they can't be decided between the parties the court will have to resolve them. We can't. If we're presented with a licensed survey, that's our requirement, and we rely upon it.

MR. DELLANNO: You'll be able to approve it the way it is then?

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MR. DONNELLY: If everything about the plan conforms and there are no outstanding issues; yes, the Board would be in a position to take action.

MR. DELLANNO: So I have nothing more that I can say in my discussion about that then?

MR. DONNELLY: Nothing that -- you're permitted to say anything you would like but if you have a survey that says something different, then you may need to address that with this land owner. We can't resolve that dispute.

MR. DELLANNO: I can't go back to the '05 survey? I can't go back to that then?

MR. DONNELLY: I can't tell you why they're different. I can't tell you if they're the same surveyor who recognized an error and cured it. What's before the Board this evening is a survey certified by a licensed surveyor with a seal on it that indicates this is the proper description of the property bounds, and we don't look behind those, we rely upon them.

MR. DELLANNO: Then I can't say anything else.

CHAIRMAN EWASUTYN: This gentleman, you

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had something to say. If you would give your name and your address, please.

MR. FASSE: My name is Harold Fasse, I live in Wallkill, New York. I'm title examiner of Orange County. I've been doing that for thirty years. Nick is a friend of mine. He showed me the deeds and I looked them up and I looked at the property lines and the maps and survey. I think his main concern was that there is a right-of-way for him along the northerly part of that boundary line that's not shown on the subdivision.

MR. MARSHAL: That's incorrect.

MR. FASSE: What's incorrect?

MR. MARSHAL: It says existing road right-of-way in favor of others reserved in liber 832 of deeds page 187.

MR. FASSE: This is true but it's not really delineated as far as going to his property.

MR. MARSHAL: The deed does not delineate it.

MR. FASSE: It does go through this lot here. I think if we can just delineate that on

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the map.

MR. DONNELLY: That does present an issue we talked about earlier that we need to hear more about because if that is true then the approval of the subdivision would place three lots on this common driveway.

MR. FASSE: The deed is over -- the common driveway that they're putting on is south of the right-of-way.

MR. DONNELLY: It's a separate location.

MR. HINES: It is separate.

MR. FASSE: The original deed does not provide any bounds, it just says generally over. It says it's on equal sides of the boundary line. It doesn't say how wide it is but it does say it's an equal distance on both sides. All we would like is for it to be delineated on the map.

MR. MARSHAL: But there's nobody to say what that equal distance is.

MR. FASSE: The road is there now. We can use that road.

MR. MARSHAL: But that's not accurate to what was -- what is in that deed.

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MR. FASSE: Then we should resolve it.

MR. DONNELLY: We generally wouldn't require an applicant, unless there was a metes and bounds description, to lay it out with particularity. Now that I look at this I do see that there's a stonewall. If that's what this indicates, that separates the one --

MR. FASSE: Correct.

MR. DONNELLY: -- way from the other. I think that it's important that we reference the easement so that everybody is aware of it. I know that we need to have a surveyor on this plan.

MR. FASSE: Our concern was the developer threatened to take down a wall and remove the right-of-way arbitrarily.

MR. DONNELLY: That would be a private issue as between you and that developer. The state of the record is what it is in Goshen, and you have been there so you know what it says.

MR. FASSE: Right.

MR. DONNELLY: This map clearly shows, and I didn't notice it at first but it clearly shows two separate access ways here. So there



1  
2 isn't an issue about too many houses on a common  
3 driveway. Under the law someone that has land  
4 that's encumbered by an easement has certain  
5 obligations, mostly not to interfere with the use  
6 of that easement. That would not prohibit them  
7 in and of itself from removing the rock walls, or  
8 the Planning Board may have a planning issue  
9 about preserving the rock walls. There's lots of  
10 things an applicant can do with land encumbered  
11 by a right-of-way easement to that land as long  
12 as he doesn't interfere with the right to use it.

13 MR. FASSE: We understand and we just  
14 want to make sure that's what happens.

15 MR. HINES: When you say they can't  
16 interfere with that, the proposed grading for the  
17 driveway serving lots 2 and 3 will, it looks to  
18 me, make the existing roadway inaccessible.

19 MR. DONNELLY: That's an issue.

20 MR. HINES: That's why I was under the  
21 impression that there was going to be three lots  
22 sharing the same driveway when I looked at that  
23 grading issue.

24 MR. FASSE: That's a problem because  
25 heavy equipment goes down the gravel driveway.

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If he's planning on paving the common driveway --

MR. HINES: He's not. I'm looking at the grading here and it's impacting what appears to be the existing driveway to Mr. Dellanno's property.

MR. DONNELLY: Can he utilize that section, though?

MR. HINES: To drive on? Not based on that proposed grading.

MR. MARSHAL: That problem became aware to us this morning. We were reviewing the plans and we wanted to -- we want to obviously fix that. That was an oversight on our part, disturbing that lane. We have no intention of disturbing it. We just have to modify the proposed grading along it. That's something that we can correct.

CHAIRMAN EWASUTYN: Okay. Let's continue on with other discussion. Thank you. Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Pat Hines, do you want to bring us through your review so far?

MR. HINES: We've reviewed the project

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with regard to the water and sewer systems that are proposed and found them to be appropriately designed.

The project does not meet the threshold for a stormwater management report. We will note that the drainage from any of the improvements will discharge to the rear of the property towards a large DEC regulated wetland area.

We have no further comments on that with the exception of the grading we just discussed and Mr. Marshal acknowledged.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: We reviewed this two-lot subdivision. We have no further issues with it.

The applicant added a note on the plans stating there would be no further subdivision of these two lots in the back due to steep slopes and location of wetlands.

We received comments -- a comment letter back from the Orange County Planning Department and the Orange County Department of Public Works along with the DEC. We have no further issues.

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CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No.

MR. BROWNE: I'm confused. I would like to get a better clarification with this road issue. Originally we were talking about at work session possibly three driveways and now that's no longer an issue; correct?

MR. DONNELLY: What the map shows, if you look closely, is there is the proposed common driveway for this subdivision.

MR. BROWNE: Okay.

MR. DONNELLY: Immediately next to it and north of it is an easement right for others to obtain access, but they are separate -- you know, separate slots of land to allow that to happen.

MR. HINES: There's an existing stonewall.

MR. DONNELLY: Pat pointed out and the applicant agreed to fix, the grading that is proposed for the new common driveway is shown in a fashion that would make use of the other access way impossible. The applicant has agreed to fix

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that. I don't know whether you want to make that a condition that Pat says has been adjusted or to have the applicant return to you.

MR. BROWNE: And then the issue on the neighbor's use and positioning of the road and so on, where is that standing?

MR. DONNELLY: The easement is referenced on the map by liber and page so its terms are clear and would put any purchaser on notice of their existence. The gentleman from the audience asked that a metes and bounds actual area of the easement be shown, or at least depicted visually on the map. That would require the judgment of someone to go out there and assume what is equally distant from a center portion. I don't know there's any reason why this applicant should have to do that. The easement is what it is. It's on file in the clerk's office.

MR. BROWNE: So to address his concern, essentially that is a civil matter and for his protection he should find himself a good lawyer and --

MR. DONNELLY: If there's an issue. I

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don't know that he has an issue. He has a fear that unless there's sufficient specificity that this owner or the purchasers will extinguish his rights. In that case it would become a private right. He clearly has an easement.

MR. BROWNE: From our perspective as a Planning Board there is no issue for us as a Board?

MR. DONNELLY: Once we make sure we haven't approved something that destroys that right, I think we are done.

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: And the condition would be that Pat Hines review the revised plans that show the grading?

MR. DONNELLY: The plans will not be signed until Pat has given you a letter saying he reviewed the revised plans and the grading issue that interfered with the right of the easement holder has been resolved.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Ed O'Donnell?

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MR. O'DONNELL: No comment.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No thank you, John.

CHAIRMAN EWASUTYN: Additional comments from the public?

Sir, if you would give your name and address.

MR. GIARRIZZO: My name is Charles Giarrizzo, I'm at 58 Forest Road right next to the proposed development. My only concern is the wells and septic system. My daughter had to go down like 450 feet and have the well cracked and crazed or whatever they call it. She's only getting a gallon-and-a-half a minute. Now we're going to put two more wells in. What kind of impact is that going to have on my well, next door's well, my daughter's well? Has anything been --

MR. DONNELLY: Everyone has the right to draw water from the ground for reasonable domestic use, and if in so doing they interfere with someone else's right to the extent that they have to drill a new well or drill deeper, than that's just how the cookie crumbles is how the

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law looks at it. If someone is going to come in and create a water supply for a large subdivision and drill a well that was going to supply a large area, then the State, through the land use process, ensures that appropriate testing is done. Every person who owns land has the right to draw groundwater sufficient to meet normal domestic needs.

I don't know that there's anything in this area that is notorious for these difficulties. In larger subdivisions the County requires that test wells be drilled to make sure that there is adequate water. This is only a four-lot subdivision and that doesn't kick in -- two. Two-lot subdivision.

MR. GIARRIZZO: The reason I'm asking is Forest Road is a notorious area for this problem. There have been several -- at least six wells that were driven that I know of that had this problem. The situation where this property is located, it's on a ridge. The wells are going to have to go very deep.

MR. DONNELLY: In another town I represent we have some areas like that and the



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2 solution from the municipality's point of view is  
3 really to require that wells be drilled to a  
4 specified depth. The problem is not that you  
5 generally can't reach water but that, if as well  
6 drillers frequently do, they go to the spot where  
7 they first hit water and then drill a short  
8 additional distance, then when somebody else  
9 drills a well and begins to draw down the first  
10 well runs dry and has to drill deeper again.  
11 It's not to restrict development because everyone  
12 has the right to draw water. The solution is to  
13 require that all wells be drilled a certain depth  
14 below when a certain gallons per minute is met.  
15 This Town hasn't enacted any ordinance like that  
16 and that's why I said I don't know of this being  
17 the kind of notorious area where the Town Board  
18 would want to get involved and enact a law that  
19 requires deep well drilling to ensure that we're  
20 not always playing leap frog with taking turns  
21 drilling wells deeper.

22 MR. GIARRIZZO: In your experience in  
23 Forest Road, we've had quite a few developments  
24 go in, Tara Estates, has there been a problem you  
25 know of of this nature?

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MR. DONNELLY: I would ask Pat.

MR. HINES: I'm not aware of that. I don't know if you were present when I gave the answer at the last public hearing.

MR. GIARRIZZO: I was sitting here. It's a generic answer.

CHAIRMAN EWASUTYN: Tara Estates was put in approximately ten years ago by Harry Service. Best of my knowledge, and I'm just speaking openly, I know of no history.

MR. GIARRIZZO: Right. Tara Estates, I'm just giving that as an example of the water usage in the area.

CHAIRMAN EWASUTYN: Forest Road, if you recall, was an area in the Town of Newburgh in the late '80s that was a hot spot for development.

MR. GIARRIZZO: Mm'hm'.

CHAIRMAN EWASUTYN: I think the majority of the subdivisions which run on both the east and west side of that road, it was a prolific area for subdivisions.

MR. GIARRIZZO: I'm aware of that. We had the property since 1946.

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CHAIRMAN EWASUTYN: You know, having worked throughout that area I can't say I've heard, or being on the Board for as many years as I have, have I heard the public come back and comment the way you're discussing now as far as a problem with wells.

MR. GIARRIZZO: I'm only going by what the professionals told me, the well drillers, that Forest Road is notoriously known for this problem. If that's the case what kind of impact? I know you can't predict the future but I think it should be a consideration.

MR. HINES: Again as I said earlier, the zoning takes that into account. I will note that there's a very large DEC regulated wetland on this property, which as everyone knows we preserve those wetlands for the aquifer recharge benefits. They're most likely a surface representation of the groundwater table in that area. These homes are located on the opposite side of the ridge from Forest Road and a little bit down gradient.

MR. GIARRIZZO: For your information, those wetlands last year when we had our drought

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practically dried up.

MR. HINES: On the surface I would believe that could happen. That doesn't mean the groundwater did. That's the reason they are protected is to provide that valuable aquifer recharge. These lots are an average of 10 acres in size. It's not something I would envision being a problem.

I will note that 450 feet deep sounds like a deep well but conventional well technology can drill to 800 feet.

MR. GIARRIZZO: My well is 180 and I have plenty of water.

MR. HINES: You can move 100 feet away and have the same result.

MR. GIARRIZZO: I understand. I just needed to address my concerns. It's on the record and we're aware of what the situation is. Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Any additional comments from our consultants or Board Members?

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MR. GALLI: None.

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing for the two-lot subdivision for the lands of Sodano.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

At this time I'll ask for the assistance of our Attorney, Mike Donnelly, for conditions of approval for the two-lot subdivision for the lands of Sodano.

MR. DONNELLY: There was one other

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issue we spoke about in the work session and that was, Bryant, the need for there to be an easement of one of those driveways across another if I'm not mistaken.

MR. HINES: Yes.

MR. DONNELLY: We will therefore need the common driveway easement and maintenance agreement. That has already been given to me but in addition there's one driveway crossing another if I remember correctly. That will require an adjustment to that common driveway easement and maintenance agreement. The map note limiting further subdivision due to steep slopes and wetland areas will be made a condition of this approval. We'll need a sign-off letter from Pat Hines that reports that the revised -- there has been revised grading to the driveway area shown. That removes the interference with the rights of easement holders. There will be a requirement of the payment of parkland fees under the Ordinance.

MR. COCKS: Mike, I think that's the next one, the easement is crossing.

MR. DONNELLY: It's the next application. Okay.

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MR. COCKS: This is just a regular  
common driveway and maintenance agreement.

MR. MARSHAL: From us we just need to  
fix the grading --

MR. DONNELLY: That's correct.

MR. MARSHAL: -- and the payment of  
fees?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Having heard the  
conditions of approval presented from our  
Attorney, Mike Donnelly, for the two-lot  
subdivision for the lands of Sodano, I'll move  
for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Frank Galli. I have a second by Ken Mennerich.  
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. BROWNE: Aye.

MR. MENNERICH: Aye.

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MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mr. Dellanno, I hope you are satisfied somewhat.

MR. DELLANNO: Satisfied with the fact I have to get an attorney, is that what you mean? I have to get an attorney. That's what you're suggesting; right?

CHAIRMAN EWASUTYN: I'm not suggesting anything. I'm just -- I'm not suggesting anything.

MR. DELLANNO: My property line has been moved over 16 -- not 16, 6 feet at one end and goes all the way up almost 1,200 feet. I have different courses. This course is going along with my deed plus the deeds prior, 1927, and they're going by a different course on this particular map. They're taking a different course at the point of the center of the lane. This course, the old deed reads in the center of the lane, then they switch to a different which brings it over about 6 feet. Two different



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courses.

CHAIRMAN EWASUTYN: I hope you have the best solution for it.

MR. DELLANNO: The old maps are no good. The one that was just approved in '05, you just approved one in '05, has the lane in the center and has the course that I agree with. So that's not existing now; right?

CHAIRMAN EWASUTYN: From what I understand our attorney to say, what we were acting on tonight was the maps before us.

MR. DELLANNO: All right.

CHAIRMAN EWASUTYN: Is that not correct?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Thank you.

MR. DELLANNO: To get this corrected that means get an attorney; right?

MR. DONNELLY: If there's an error. I can't tell you. I haven't compared them. I don't know. If there's a dispute as to where the property line is, the courts are where that's resolved, not before the Planning Board.

MR. DELLANNO: Thank you.

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(Time noted: 8:01 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.

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DATED: November 23, 2007

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

----- X

In the Matter of

G&G PROPERTIES  
(2007-24)

Zeus Court off Pressler Road  
Section 6; Block 1; Lot 17.41  
AR & RR Zones

----- X

FOUR-LOT SUBDIVISION

Date: November 15, 2007  
Time: 8:02 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI  
ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHAL

----- X

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CHAIRMAN EWASUTYN: The next item of business we have before us this evening is G&G Properties. It's a four-lot subdivision located on Zeus Court off of Pressler Road, it's zoned AR and RR. It's being represented by Lawrence Marshal.

Lawrence, this is an update. This was before us about a month ago. We asked you to revise your maps and I believe you revised your maps.

MR. MARSHAL: Yes.

CHAIRMAN EWASUTYN: Would you bring us along on that, please?

MR. MARSHAL: At the last meeting -- well, to bring you back a little bit further, it was requested by one of your consultants for us to place a note on the map stating no further subdivision of any of the lots based upon the limited access. The applicant did not wish to place that on the map and the Board had requested that we make provisions, improve the private lane to allow for additional frontage to provide for the potential for future subdivision. We spoke to the applicant. Due to the increased cost of

1  
2 actually building the additional road the  
3 applicant has requested that we make provisions  
4 with road reservation to portions of the lots to  
5 allow that private road to be extended at such a  
6 time that they would wish to further subdivide.  
7 They do not have any plans for further  
8 subdividing in the future so they do not wish to  
9 bear the cost of that at this time. They are as  
10 required by the previous subdivision of this lot  
11 -- of this parcel, they are required to improve  
12 Zeus Court to current private road standards, and  
13 that will be completed for the subdivision of  
14 these four lots.

15 What we have shown is the existing  
16 private lane to be improved to current private  
17 road standards. Right now it's just a gravel --  
18 nothing more than a gravel driveway but it will  
19 be improved with pavement. We have shown a road  
20 reservation parcel to allow for the potential for  
21 future subdivision and road extension.

22 CHAIRMAN EWASUTYN: Take a deep breath.  
23 Relax.

24 MR. MARSHAL: Thanks.

25 CHAIRMAN EWASUTYN: Pat Hines, do you

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want to give us your review?

MR. HINES: As Mr. Marshal stated, the Board had asked him to take a look at extending the private roadway to provide for any future subdivision should that occur. In response to that they've provided the easement, however not the actual construction of the roadway. It accomplishes the same thing without requiring the construction. Should the owner of one or either of the two large lots in the future wish to extend the private road then subdivide that, one or both of those lots, they would have the ability to do that. I think it accomplishes what the Board was looking for without requiring extension of the road at this time.

We talked at work session about the condition of Zeus Court. I do recall the detail on the detail sheet that that will be reconstructed to the current Town of Newburgh private road specifications, which I think addresses the comments we heard at work session regarding the potential for emergency vehicle access to be restricted because of the existing condition. So that's been -- the rest I believe

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-- our other comments have all been addressed.  
The wells and septic systems meet the requirements.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The last time they were in I made the comment that we wanted to see you guys either reuse or preserve stone walls on the site. I don't know if that was ever addressed on the plans or in the resubmission package. If you guys can either add a note on there saying you can reuse them or preserve them.

MR. MARSHAL: Sure. We'll add a note to that effect.

MR. COCKS: Okay. The only other issue was regarding the extension of the private road which Pat just discussed.

All lots currently meet zoning and we have no further issues.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No.

MR. BROWNE: No. The only question was Pat's comment about extending the road later if

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there's a subdivision. Is there a note that that's a requirement that if either lot is subdivided or -- I know from what you said it's allowed but is it required if subdivision occurs in the future? I would be looking for a requirement versus allowed to.

MR. MARSHAL: That this improvement be required if further subdivided?

MR. BROWNE: Yes. Rather than just allowed.

MR. MARSHAL: It says lots shall have the right to extend the private road for the further subdivision of lots. It doesn't say required. Certainly we can add that.

MR. BROWNE: I think that would be appropriate. If we've taken that much to do it I think it should be required.

MR. MARSHAL: Any further subdivision of these two lots --

MR. DONNELLY: Will require the extension of the private road.

MR. HINES: The only other way it could be done is if they went for the waiver. I think putting it on the map now would further



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accomplish what you wanted it to do.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I was pleased to hear Zeus Court would be upgraded to current specifications for private roads. It certainly needs it.

MR. MARSHAL: Yeah.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: As far as I'm concerned the only issue was the road. I guess it's going to be okay.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm good, John.

CHAIRMAN EWASUTYN: Having received the improvements that were necessary both on the revised plans and the improvements to the private road, I'll move to declare a negative declaration for the four-lot subdivision for G&G Properties and set the 6th of December for a public hearing.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

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(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Nay.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye.  
If you would please contact Dina Haines  
as far as the mailing for the public hearing.

MR. GALLI: John, did you give the  
date?

CHAIRMAN EWASUTYN: The 6th of  
December.

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

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

I, Michelle Conero, a 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: November 23, 2007

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

----- X

In the Matter of

200 STONY BROOK ASSOCIATES  
(2007-16)

200 Stony Brook Court  
Section 97; Block 1; Lot 49  
B Zone

----- X

ARCHITECTURAL REVIEW BOARD  
SITE PLAN

Date: November 15, 2007  
Time: 8:08 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: WILLIAM PENDERGAST

----- X

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CHAIRMAN EWASUTYN: The next item is 200 Stony Brook Associates. It's located on Stony Brook Court in a B Zone. It's being represented by Mr. Pendergast. The action before us tonight is ARB and site plan.

MR. PENDERGAST: Yes. Thank you for taking me on my normal course here. We're here tonight for final site plan I guess, and for architectural review. We managed to get through the Zoning Board for our two-inch variance so we're back to complete this.

What I have tonight is the architectural review. Originally when we came in several months ago we proposed putting an addition on the front for a vestibule and also to the left-hand side along Route 17K for the addition in the back of the building. Basically it was an existing bank building here and we put an addition to the back and the vestibule to the front. These were the original renderings we showed at that time. Since then we've kind of tweaked the building a little bit. The entrance changed a little bit because the needs of the doctor changed a little. We brought the building

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back in and we dressed it up a little differently. Again, it's pretty much in the same kind of vernacular we had before.

We added a little color to the building instead of being kind of stark white and brick.

There were some comments at one of the architectural reviews about the metal roof. We've switched all the roofs to like a slate blend shingle. We're keeping the existing brick on the building. We're adding some new brick to match the existing and we've added a little bit of color to some of the trim work around the windows.

Again, the main change here was the entrance. It originally was from two sides coming from left and right and now the entrances are centered.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: What kind of doctor's office is this going to be again?

MR. PENDERGAST: He's a plastic surgeon and ENT. Currently his practice is in Stony Brook Court. It's 1200 Stony Brook.

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MR. GALLI: It just seems like a lot of office for a small building.

MR. PENDERGAST: Basically they're treatment rooms. It kind of works in two ways. There's the plastic surgery which he has a couple treatment rooms for but they do other kinds of therapy and things. There's the ENT practice he has as well and it kind of divides itself, so you have hearing rooms and audiology and allergy that are related to that.

CHAIRMAN EWASUTYN: Any additional comments, Frank?

MR. GALLI: No. I'm good.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: With the brick you're going to try to match the existing brick?

MR. PENDERGAST: Yeah. We actually can. We're going to salvage some of the brick that's there and we can match the brick that's on the building.

MR. BROWNE: I guess putting an addition on, I don't want it to look like new brick, a new addition.

MR. PENDERGAST: Actually the only

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brick we're really adding is at the base of the piece in the front. The side elevations here, this faces 17, that's all stucco. Like a synthetic stucco material. We're not actually going to try to add brick there because it's too much and it wouldn't match.

MR. BROWNE: Thank you.

MR. PENDERGAST: A very limited amount of brick.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I like the front elevation.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: I was just having a brief conversation with the Chairman and we were wondering where the vault is because he needs a place to put all his money.

MR. PENDERGAST: If you would like it you can get it out of the building. We would be happy to donate it. It will save us about \$20,000 if you would like to take it out. We'll even open the walls for you so you can get it out.

CHAIRMAN EWASUTYN: Joe Profaci?



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MR. PROFACI: You have two main entries into the building. Is that because of the two different practices or --

MR. PENDERGAST: Basically what you have is we sort of split -- originally there was an entrance from each side and it came into one common lobby. As his practice has kind of developed, it is what it is and some days he's doing plastics and the other days he's doing the ENT. Really the plastic side is a little more say upscale and the ENT is more the general practice. You come in through a different door and the same receptionist can actually work both sides of the counter. It really divides the patients up.

MR. PROFACI: And what is the -- you may have said this. What is the finished material for the back addition?

MR. PENDERGAST: This piece in the back here would be like a stucco. You know, what they call efface. It's a synthetic.

MR. PROFACI: The same color as the front?

MR. PENDERGAST: It will be the same

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2 color as the front. Unfortunately Xeroxes don't  
3 work with markers. Kind of a tone kind of cream  
4 buff color.

5 MR. PROFACI: The bottom part?

6 MR. PENDERGAST: This here is brick.  
7 This piece down in here would probably be just a  
8 little bit darker to give it a base. It will be  
9 this same color or it could be this color but  
10 toned to a little darker color. I wouldn't try  
11 to match the brick. It's all lawn area there.  
12 There's no parking. It will stay clean.

13 MR. PROFACI: Thank you.

14 CHAIRMAN EWASUTYN: Karen, do you have  
15 anything to add to the ARB on this?

16 MS. ARENT: No. Only that they are  
17 showing landscaping on the ARB and there is no  
18 landscaping shown on the site plan.

19 MR. PENDERGAST: We can address those  
20 comments. I think I sent you a memo about that  
21 as well.

22 MS. ARENT: I did have one question  
23 about the sign that you showed. How is it going  
24 to be lighted?

25 MR. PENDERGAST: We'll use a ground

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mount fixture with shields that will light up from below. There's currently lighting on the signs there now. They took a sonotube and put a fixture on it. We won't do that. We'll submit a ground light fixture that you can look at as well.

MS. ARENT: Great. Thank you.

CHAIRMAN EWASUTYN: Bryant Cocks, do you have any comments on the ARB?

MR. COCKS: In the detail sheet in back you're going to have to put the trash enclosure.

MR. PENDERGAST: We had brought this up at one of the other meetings.

CHAIRMAN EWASUTYN: They didn't claim to have one. I wanted to hear it again. Is that what you said?

MR. PENDERGAST: We don't have any intention of having a dumpster. Basically it will probably be no more than like two cans a week that the doctor goes through. He has medical waste that he has to keep inside the building that gets taken out differently. It is separated. We put a pad just so he can put the cans. They would be the wheeled type of can.

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2 Like the large wheeled cans. If we need to screen  
3 it we would be happy to.  
4 MR. COCKS: I was going to say if  
5 they're going to leave garbage cans outside they  
6 should have a fence around it instead of leaving  
7 two garbage cans --  
8 MR. PENDERGAST: They're really tucked  
9 behind the building. It's two wheeled off cans.  
10 CHAIRMAN EWASUTYN: What would the  
11 Board like to see?  
12 MR. PENDERGAST: We can put a few  
13 bushes in front of it to screen it.  
14 CHAIRMAN EWASUTYN: Can I hear from the  
15 Board Members?  
16 MR. PENDERGAST: Sure.  
17 CHAIRMAN EWASUTYN: Frank Galli?  
18 MR. GALLI: Just put some plantings  
19 around it. He can hide them behind the corner  
20 someplace.  
21 MR. BROWNE: I don't have anything.  
22 MR. MENNERICH: What Frank mentioned is  
23 fine.  
24 CHAIRMAN EWASUTYN: Ed?  
25 MR. O'DONNELL: What's behind the back

1  
2 of the building?  
3 MR. PENDERGAST: A rock wall that goes  
4 up about 40 feet.  
5 MR. GALLI: Then the bus garage.  
6 MR. PENDERGAST: Yeah.  
7 CHAIRMAN EWASUTYN: Joe?  
8 MR. PROFACI: If you want to put a few  
9 bushes around it, that would be appreciated.  
10 CHAIRMAN EWASUTYN: So we'll have a  
11 vegetative screening around the pad.  
12 MR. PENDERGAST: Not a problem.  
13 CHAIRMAN EWASUTYN: Bryant, anything  
14 else?  
15 MR. COCKS: On ARB, no. I do have a  
16 couple on the site plan.  
17 CHAIRMAN EWASUTYN: Pat Hines, do you  
18 have anything to add to ARB?  
19 MR. HINES: No.  
20 CHAIRMAN EWASUTYN: Ken Wersted?  
21 MR. WERSTED: No.  
22 CHAIRMAN EWASUTYN: Mike, any  
23 conditions that we'll place on the approval for  
24 the ARB?  
25 MR. DONNELLY: It would be the standard

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one, they have to build as shown and Karen's inspection.

CHAIRMAN EWASUTYN: Having heard the conditions that Mike Donnelly has said, that Karen will do a final inspection of the plans before they're submitted to the building department, I'll move for a motion to approve the ARB for 200 Stony Brook Court.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Do you want to walk us through the site

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plan?

MR. PENDERGAST: Thank you very much.

CHAIRMAN EWASUTYN: You're welcome.

MR. PENDERGAST: Really nothing has changed since the last time we were here. Again, the existing building is a one-story brick building. We have an addition at the front. We have the addition at the back which is following the setbacks as prescribed.

We've altered the parking lot to have traffic that comes in both entrances. We've added some one-way parking in the front. Originally it was facing towards the building but there were some comments from the traffic engineer about exiting here so we flipped the parking to the outside which allowed us then to get a better radius out of here and a little more cue space.

Originally the paving went completely around the building. We've now stopped the paving here and taken out all the paving that went around where the drive-through was originally. So we decreased the amount of impervious coverage.

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Again, it's a one-story addition in the front for the entrance and a one-story addition in the back.

We're going to re-stripe the lot, re-curb the lot, repave the lot.

We'll add landscaping as we will discuss.

The existing lighting fixtures are the period lighting fixtures that are there currently. We're going to maintain those. That's pretty much it.

CHAIRMAN EWASUTYN: Bryant Cocks, you had said earlier you had some questions on the site plan.

MR. COCKS: Yeah. If you could just show stop signs at both exit points.

MR. PENDERGAST: We will do that.

MR. COCKS: Also leading up to where the handicap spaces are, you're going to need to have a sidewalk on that side continued up the side.

MR. PENDERGAST: Well, the thing with that was, and Tom Olley had said that this is really no different than any curbed island where



1  
2 you would have parking for handicapped next to a  
3 curbed island. In order to do that we're going  
4 to have to remove some of the landscaping.  
5 That's going to encroach on the building. So I  
6 prefer to leave the landscaping. This is really  
7 no different than any other parking space for  
8 handicap you have next to a curbed island in a  
9 parking lot. If you wanted the sidewalk we'll  
10 just lose some of the landscaping along the front  
11 of the building.

12 MR. COCKS: I was just thinking if  
13 someone is trying to get out of the back driver's  
14 side and they have a wheelchair, I don't think  
15 they'll be able to get out there. I don't want  
16 to lose the landscaping but --

17 MR. PENDERGAST: Typically anybody that  
18 has a wheelchair, usually they have a lift.  
19 They're usually getting out on this lane in here  
20 because they usually have, you know, a van  
21 accessible. They usually get out on the  
22 passenger side. Anybody who is mobile enough  
23 probably can get out, get around the car and get  
24 to wherever they need to. Again, we're happy to  
25 put the sidewalk in but we were trying to

1  
2 maintain the landscaping up against the building.  
3 CHAIRMAN EWASUTYN: Board Members, if  
4 you would take an opportunity to turn to sheet 2  
5 to see what your recommendations are, if you want  
6 to leave the existing vegetation in place and  
7 allow for the person who is mobility impaired to  
8 use the proposed new sidewalk and handicap ramp.  
9 Jerry's not here. Pat, is there  
10 anything in the Code that would require that  
11 there be the convenience of a sidewalk?  
12 MR. HINES: No. There has to be a  
13 handicap space within a certain distance of the  
14 door. It doesn't necessarily require a sidewalk.  
15 MR. GALLI: I would rather see the  
16 landscaping. Keep the ramp where it is and just  
17 do that.  
18 CHAIRMAN EWASUTYN: Cliff Browne?  
19 MR. BROWNE: I agree.  
20 CHAIRMAN EWASUTYN: Ken Mennerich?  
21 MR. MENNERICH: I agree, landscaping.  
22 CHAIRMAN EWASUTYN: Ed O'Donnell?  
23 MR. O'DONNELL: Landscaping.  
24 CHAIRMAN EWASUTYN: Joe Profaci?  
25 MR. PROFACI: The same.

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CHAIRMAN EWASUTYN: Okay. Other outstanding items, Bryant?

MR. COCKS: Yes. There was just a rectangular box on one of the site plans, the first entryway. I don't know if that was --

MR. PENDERGAST: It's the CAD drawing. It's actually a curved elevation mark. It came through as a box.

MR. COCKS: Just clean that up.

MR. PENDERGAST: We'll take care of that.

MR. COCKS: You guys are still only going to retain the one light that's in front?

MR. PENDERGAST: Currently there's a light fixture here, there's one here. That one, we're going to actually change that fixture to match the other ones and then we'll have -- there is decorative lighting on the building. There is another light fixture over here as well. There are several light fixtures here. We're going to maintain the existing period light fixtures that are currently there, and then there will be decorative lights on the building at the entrances and the doors.

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MR. COCKS: Do you know how tall those lights are? They weren't shown in the --

MR. PENDERGAST: The current fixtures that are there, if I had to guess they're 14 feet. They're like a Georgian fixture.

MR. COCKS: That's fine. I think that was it.

We received the sewer allocation letter from the City of Newburgh on October 9th.

We received the Orange County Planning Department sheet this week.

You guys sent the plans to the fire department?

MR. PENDERGAST: We did. On September 7th they were sent to -- plan sheet 2 of 4 was sent to Mike Decker, chief of the Goodwill Fire District. We've gotten no comments.

MR. COCKS: Okay.

MR. GALLI: I thought you got a comment back. We sent them one of our updates.

MR. PENDERGAST: The other thing to note is the building is going to be completely sprinklered because it's now required to be.

MR. GALLI: That's one of the comments

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they sent back to you, John. I'm pretty sure they cc'd us.

CHAIRMAN EWASUTYN: I don't have a note that I entered receiving it but --

MR. GALLI: Frank sent it to you. I remember reading it. I'll check.

CHAIRMAN EWASUTYN: Okay.

MR. COCKS: Just one other point of reference. This is an Unlisted action, with the addition of the foyer it's over 4,000 square feet, so a determination will have to be made.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines?

MR. HINES: We have no outstanding comments. They've added the curbing or resurfacing of the parking lots.

As noted at the work session, the flow allocation letter from the City of Newburgh has been received. Our comments have all been addressed.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: Landscaping should be shown in the front of the -- between the building and the sidewalk to be in keeping with other

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buildings in the complex as well as to match your architectural drawing.

The center of each of the Boxwoods should be shown at least four feet away from the curb. We try to give them room to grow and save them.

The Gold Post Junipers are shown in a lawn area. It would be better to put them in a bed.

MR. PENDERGAST: Not a problem.

MS. ARENT: The October Glory Maple is shown on bedrock on the hill in the back. If that could be moved into the lawn area. It's shown right on this hill near the corner of the site. Just move that over to the lawn area.

MR. PENDERGAST: Okay.

MS. ARENT: And continue just a little bit of planting around the first two regular parking spaces just to give a little more screening.

MR. PENDERGAST: In here?

MS. ARENT: Just a little bit.

MR. PENDERGAST: We'll do that.

MS. ARENT: If you could just show a

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little planting around the sign to dress it up.

MR. PENDERGAST: We'll do that. The other signs will be removed as well.

MS. ARENT: Tom Olley does have the regular standard planting notes we put on.

MR. PENDERGAST: We'll add those as well.

MS. ARENT: You're going to need a landscape bond estimate.

CHAIRMAN EWASUTYN: Okay. Additional comments from Board Members?

MR. GALLI: No additional.

MR. BROWNE: None.

MR. MENNERICH: None.

MR. O'DONNELL: Nothing.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to declare a negative declaration for 200 Stony Brook Associates for the site plan.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Joe Profaci.

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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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike Donnelly, Planning Board Attorney, can you give us conditions for approval for the 200 Stony Brook Associates site plan?

MR. DONNELLY: I don't know that you ever formally voted to waive the hearing. I assume that's what you want to do. You may want to include that as part of the resolution or include it separately.

CHAIRMAN EWASUTYN: I have a question mark next to that.

MR. DONNELLY: I don't see that you had done that.

CHAIRMAN EWASUTYN: Does the Planning



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Board want to have a public hearing on 200 Stony Brook Associates?

MR. GALLI: I don't feel it's necessary.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. O'DONNELL: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to waive the public hearing for the 200 Stony Brook Associates site plan.

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So

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carried.

Mike, will you give us the conditions of approval?

MR. DONNELLY: The resolution will refer to the granted variance issued on August 27, 2007. We'll need a sign-off letter from Karen reporting on the revision of the landscaping details and their transfer to the site plan as well as we might as well have Karen look at the vegetative screening added around the trash can storage area. We had the ARB condition earlier. There will be a landscape security and inspection fee required and a condition that prohibits the construction of any fixtures or structures not shown on the site plan.

CHAIRMAN EWASUTYN: Having heard the conditions of approval, I'll move for that motion.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

Thank you.

MR. PENDERGAST: Thank you very much.

(Time noted: 8:30 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: November 23, 2007

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

----- X  
In the Matter of

ALTMAN LIGHTING  
(2007-40)  
Route 17K  
Section 95; Block 1; Lot 58  
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 15, 2007  
Time: 8:30 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: REG WALTERS

----- X

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

1  
2 CHAIRMAN EWASUTYN: The following item  
3 of business this evening is Altman Lighting.  
4 It's a conceptual site plan located on Route 17K  
5 in an IB Zone. It's being represented by Reg  
6 Walters.  
7 MR. WALTERS: Mr. Chairman, Board  
8 Members, this is our first opportunity to appear  
9 before the Board with this application, so if I  
10 could take the opportunity and it's acceptable to  
11 everyone, I'll just do a brief overview of the  
12 proposal.  
13 CHAIRMAN EWASUTYN: Before you do an  
14 overview can you introduce us to your client, how  
15 many people are employed, what his history is,  
16 what he manufactures, --  
17 MR. WALTERS: Absolutely.  
18 CHAIRMAN EWASUTYN: -- that way we have  
19 a better understanding of what we're trying to do  
20 here?  
21 MR. WALTERS: That was going to be my  
22 next statement.  
23 CHAIRMAN EWASUTYN: I'm sorry I got  
24 there first.  
25 MR. WALTERS: I'm here tonight with Mr.

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Bob Altman who is the applicant and will be the occupant of the first phase. I'll give Bob the floor for a little bit.

MR. ALTMAN: Ladies and gentlemen, thank you for letting us in on this session. My name is Robert Altman, A-L-T-M-A-N, I live at 1054 Oenoke, O-E-N-O-K-E, Ridge Road in New Canaan, Connecticut 06840. I'm the president and owner of Altman Lighting. We are a family run business. My parents started it way back in -- the roots go back into the late `20s. We incorporated in 1953. We have about 130 people. We have a great group of people. We manufacture a complete line of theatrical TV and film lighting equipment and high-end architectural lighting. We love what we do. We have a great group of people that we're looking to bring up here.

We're presently on the banks of the Hudson River in Yonkers, right on the Hudson River. I don't know if you know it but Yonkers is doing a major revitalization and they're putting big high rises up. We're talking with developers like Lou Kapelli and a couple mid-town

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2 high rise developers. We're going into joint  
3 venture on a deal for probably 600 to 800  
4 condominiums on the river, on the waterfront  
5 there.

6 We have a light manufacturing assembly  
7 facility. We've been there since 1969. Yonkers  
8 has finally woken up, it's in the empire zone and  
9 they're putting up these high rises. You can't  
10 stand in the way of progress so we're looking to  
11 move the company and Newburgh was the right place  
12 to come to. Some of my people, you know, come  
13 from up here. They come from northern  
14 Westchester, Walden, Montgomery. Some come from  
15 the Jersey shore, some come from south of us. It  
16 was the right place to come. I hear that the  
17 labor force is a good labor force up here, which  
18 I'm a little bit nervous about yet. We'll have  
19 to be hiring probably a lot of people. Maybe 40  
20 to 80 people.

21 I purchased a piece of property from  
22 Pristino's, had the closing in February. Reg  
23 here has helped us with the site plan. Basically  
24 he'll tell you about the site plan. We're  
25 putting the building in the back and would like



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to also put a beautiful office building in the front so when you drive by 17K you look in and see a beautiful office building also.

I guess the timetable -- you know, it's not a matter of if, it's a matter of when. When is happening pretty quick in Yonkers. I would imagine it's anywhere from a year to maybe twenty-four months before we get the green light to, you know, pack up and move. So we're looking, you know, to expand the business.

It's a clean operation. We are intimately involved now with LED technology and semiconductors and electronics. If somebody would have said years ago you would be putting computers in lights I would have said they were crazy, you know. We have a very talented group of people. We're always constantly developing. Actually, my whole crew is in Orlando, we have a trade show down there. We're all looking forward to moving up here and being a credit to the community and getting some help to try and get this project moving. The last thing we want to do is get in the way with the developers there. Reg has been great to pull this thing together.

1  
2 I have a catalog here. You're welcome  
3 to have it. I can bring it up. It's kind of  
4 what we do.  
5 CHAIRMAN EWASUTYN: He has electricity  
6 in his house, no one else does.  
7 MR. O'DONNELL: I have a vault, too.  
8 MR. ALTMAN: We've got a great group of  
9 people and we're all looking forward to coming up  
10 here and --  
11 CHAIRMAN EWASUTYN: I think you've done  
12 well. Your hours of operation?  
13 MR. WALTERS: We're basically now 8:30  
14 to 5:00. The office building goes in and we  
15 could stagger it a half hour before or later with  
16 the traffic.  
17 I was a little concerned with the  
18 traffic, to figure that out. When you pull out  
19 of there and make a left to go east it's kind of  
20 a little rough getting out of there. There's  
21 going to be a number of issues we have to work  
22 out, you know.  
23 That's what we do. You're welcome to  
24 come down. If anybody is driving past Yonkers on  
25 the riverfront, you don't need a formal

1  
2 invitation, just bang on the door and come on in.  
3 MR. O'DONNELL: What type of work  
4 environment do you have? Is it a clean room?  
5 MR. ALTMAN: We have C&C equipment.  
6 Taret presses, trumped laser cutters. Light  
7 manufacturing. Our dye casting work is done on  
8 the outside. Our spinning work is done on the  
9 outside. Electronics, we're going more towards,  
10 you know, pick and place and wave solder and  
11 bonding type of machinery to populated LEDs on  
12 copper clapboards. It is old school and it's new  
13 technology. We're a technology driven company.  
14 It's a clean operation. We have a powder spray  
15 system. There's no VOCs, which is volatile  
16 organic compounds. We're completely OSHA  
17 compliant. We have people that just take care of  
18 that.  
19 MR. O'DONNELL: Do you build the entire  
20 assembly from the beginning?  
21 MR. ALTMAN: Yes. Yes, we do. The  
22 sheet metal comes in. We don't have an operation  
23 like traditional big boxes where you've got  
24 distribution and three hundred trucks coming in.  
25 It might be a couple trucks in the morning, two

1  
2 or three trucks in the afternoon, you know.  
3 MR. O'DONNELL: How many people?  
4 MR. ALTMAN: About 130.  
5 MR. O'DONNELL: So you're bringing a  
6 pretty good group with you if you hire from 40 to  
7 80 here.  
8 MR. ALTMAN: Probably about half.  
9 MR. O'DONNELL: Is the office building  
10 that you refer to yours or do you intend that to  
11 be another tenant?  
12 MR. ALTMAN: Yes. I have a picture.  
13 MR. O'DONNELL: That can't be yes.  
14 MR. ALTMAN: It's another tenant.  
15 MR. O'DONNELL: Another tenant?  
16 MR. ALTMAN: Yeah. It made sense to  
17 utilize the property better. That you would see  
18 coming, you know, from the road. Our building,  
19 the west side of this building, would be on this  
20 side here. This is the west side over here.  
21 That would be the front.  
22 MR. O'DONNELL: That's what you see  
23 from 17K?  
24 MR. ALTMAN: Yeah, yeah.  
25 MR. HINES: You'd have to cut the trees

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2 to see it from 17K.  
3 MR. ALTMAN: It will be extensively  
4 landscaped. I'm big on that, you know.  
5 MR. O'DONNELL: We like that here, too.  
6 MR. ALTMAN: It will be the prettiest  
7 piece of property.  
8 MR. O'DONNELL: Do you like stonewalls?  
9 MR. ALTMAN: The property is pretty  
10 flat.  
11 MR. O'DONNELL: We didn't mean they  
12 were going to be there now. We expect that they  
13 might wind up there.  
14 MR. ALTMAN: Well, the entrance way has  
15 to -- you know, obviously we need to come up with  
16 a plan that you like. It will be, you know,  
17 sidewalks and stonewalls.  
18 MR. O'DONNELL: Would you put this  
19 facility in -- where is it you live? New Canaan?  
20 MR. ALTMAN: That's a residential  
21 community.  
22 MR. O'DONNELL: They must have some  
23 industry.  
24 MR. ALTMAN: Not much. It's a bedroom  
25 community. It's kind of a hike. Actually, my

1  
2 wife is packing up the house now a little bit at  
3 a time and we'll be looking to move up here  
4 ourselves.

5 MR. O'DONNELL: We've got a lot of  
6 houses on the market.

7 MR. HINES: That's why they're saving  
8 the house in the front.

9 MR. O'DONNELL: What do you intend to  
10 do with that house?

11 MR. ALTMAN: That will be knocked down.  
12 Obviously that will be knocked down. We'll use  
13 that for construction. Instead of a trailer you  
14 can use that as a construction office.

15 CHAIRMAN EWASUTYN: Is that why there  
16 was a truck with Connecticut plates in the rear  
17 the other day? Is someone using it as a field  
18 office?

19 MR. ALTMAN: My son is up there  
20 cleaning up a little bit. We cleaned it up a  
21 little bit.

22 MR. O'DONNELL: What kind of skills do  
23 these people require that you're going to hire?

24 MR. ALTMAN: From general assembly  
25 work. We probably have about 20 women and they

1  
2 work out very well with general assembly and  
3 light assembly work, putting light things  
4 together, lights and sockets. We have everybody  
5 from software people to operators, machine  
6 operators, C&C like I said, packing, spot  
7 welding.

8 MR. O'DONNELL: So this would wind up  
9 being your only facility?

10 MR. ALTMAN: The one in the back, yes.  
11 We're going to move lock, stock and barrel.

12 MR. O'DONNELL: Right.

13 MR. ALTMAN: Yup.

14 CHAIRMAN EWASUTYN: Comments from the  
15 Board Members. Frank Galli?

16 MR. GALLI: I was just curious on the  
17 height of the building from the front, the  
18 airplanes don't take off the top of it.

19 MR. ALTMAN: We have to come down a  
20 foot. I'll tell you, it's like a built in  
21 tourist attraction, those planes coming in. They  
22 come in right over you.

23 MR. O'DONNELL: Wait a few years, maybe  
24 it's not such an attraction. That's a  
25 consideration. I don't know how important

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vibration is to your process.

MR. ALTMAN: It's fine. The building is -- the way we're constructing it is extra heavy duty, extra insulation. Extra, you know, insulation all around on the sides. We've got some plans on the building, too.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Do you have a timeframe for the second phase, when you think that's likely to develop?

MR. ALTMAN: As soon as I get -- basically we're getting what we need from the developer to get out of where we are to build this building and then he has two years to give us the balance. So it probably would be maybe about a year after we build it, we finish the first building. They go hand in hand. The place has to be finished, you know. It will be -- I think it will be a nice addition to the community, and I think with the airport opening up you might get a Jet Blue or something in there that might take the offices, you know.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: What you're showing me so



1  
2 far I like.  
3 CHAIRMAN EWASUTYN: Ed O'Donnell?  
4 MR. O'DONNELL: I'll second that.  
5 CHAIRMAN EWASUTYN: Joe Profaci?  
6 MR. PROFACI: How is Gary Leonard  
7 doing?  
8 MR. ALTMAN: You know Gary.  
9 MR. PROFACI: He's a friend of mine.  
10 MR. ALTMAN: Gary Raymond? He's Gary  
11 Leonard the father and then --  
12 MR. PROFACI: Right.  
13 MR. ALTMAN: His son is my Godson.  
14 MR. PROFACI: You're going to be moving  
15 to Newburgh, too?  
16 MR. ALTMAN: He's right across the  
17 river but he's talking about --  
18 MR. PROFACI: He will be working here?  
19 MR. ALTMAN: Yeah. My whole crew is in  
20 Florida now. It's a little crazy trying to get  
21 ready for a trade show, you know.  
22 CHAIRMAN EWASUTYN: Comments from our  
23 consultants on what we've seen so far?  
24 MR. HINES: I have site plan comments.  
25 CHAIRMAN EWASUTYN: Just in general.

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CHAIRMAN EWASUTYN: Bryant? Not the site plan.

MR. COCKS: The buildings look nice. I mean I was just questioning it was labeled on the site plan as a one-story building and that then shows a two-story building up there. I don't know if that was just mislabeled on the plans or if --

MR. ALTMAN: Actually they're both two stories. The box is, I think, 32 feet. It's under the flight path. There's two stories of offices. There's a cafeteria in there to feed 100, 120 people. So we'll probably get a couple young guys out of the Culinary Institute to cook a nice turkey dinner for the holidays.

Actually there's a bowling alley in the basement downstairs. There's engineering in there. There's an engineering room and administrative, some executive offices.

MR. GALLI: Is that a realistic building you're showing us?

MR. ALTMAN: That's it.

MR. GALLI: I see open air space off to the left.

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MR. ALTMAN: There's some balconies in there, there's some open areas. This is a light.

MR. GALLI: A lot of people show us things and then six months later they come back and --

MR. ALTMAN: I made the changes already. This is it. This is it. Actually we have a model at work. I have blueprints of the factory layout, how it just flows for efficiency. Right now in like seven buildings we're in 100,000 square feet. We have a rental division. There's only about ten people in the rental division and that's going to stay down south because that services New York. The manufacturing we sell all over the world so it doesn't matter where we are. Newburgh is the right place.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: It looks really great. My only concern is there doesn't seem to be as much green space available on the site as received in the drawings. The site looks very tight and there seems to be not too much space for what we're seeing.

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MR. ALTMAN: They have a retention pond that's going to be green.

MS. ARENT: For example, it's really pretty seeing all that grass and all the trees but like there's no space for that. I would just ask you to see if what you're showing is true to what is going to be.

MR. ALTMAN: I was very sensitive, honestly, to make sure -- let's say in the office building, I know the requirements are 5 spaces per 1,000 for the first 20,000 feet -- for the first 20,000 square feet which is 100 car parking spaces, and then 4 spaces for every 1,000 foot over 20,000. Reg and I, you know, we worked on this and I said let's -- I would rather make the building smaller and make it at least 5 spaces -- make the first 5 spaces per 1,000 and at least 4 parking spaces over 20,000 because realistically 1,000 square feet is pretty big for three people. I was sensitive to the parking and certainly sensitive to whatever -- there's one way to do things and that's to do it right. Whatever we have to do to do it right, you're not going to have any problems with me. We'll do it right,

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whatever you want.

MS. ARENT: The renderings look beautiful.

MR. ALTMAN: Thank you. We'll come up with a nice landscaping plan too for the front. Beautiful entrance. I'm not talking about throwing a few bushes down. I actually have some pictures of my house with landscaping. You're welcome to take a look at it. I went bezerk with the landscaping.

CHAIRMAN EWASUTYN: Ken Wersted, comments on the buildings for now? We'll introduce Reg Walters to go through the site plan. Do you have any comments on that right now?

MR. WERSTED: Nothing specific on the building. I was just curious, you had mentioned the trucks coming in and out. What size trucks? Do you have larger trucks bringing materials in that get assembled?

MR. ALTMAN: There's a few trucks that would bring materials in. We usually have Yellow and New Penn. Actually New Penn is right behind us. They come down every day. Maybe there's

1  
2 three, four trucks that come in, tractors, to  
3 load up. It's not like your typical warehousing  
4 where you have 200,000 square feet warehouse and  
5 6,000 of offices and trucks in all day long. You  
6 couldn't have that with an office, it wouldn't  
7 work. We have isolated a road to get in, a  
8 common road that bears to the right, and the  
9 parking would be more or less to the left. Reg  
10 will explain that to you. We did it the best we  
11 could and whatever we have to change or make  
12 better or fix, we'll just do it, you know.

13 CHAIRMAN EWASUTYN: Reg, we're going to  
14 have you walk through the site plan with the  
15 understanding, and I think, if I may call you  
16 Robert, said you're going to demo the building.  
17 The existing building cannot remain.

18 MR. ALTMAN: No. The house?

19 CHAIRMAN EWASUTYN: The house.

20 MR. ALTMAN: I would like to keep it  
21 until we get the construction done and then it  
22 will be out.

23 MR. DONNELLY: The only prohibition is  
24 it being a residence. We can condition the CO.

25 MR. ALTMAN: I'm not going to rent it

1  
2 out or anything like that. I just figured it  
3 would be good when it's cold in the winter you've  
4 got heat and water.

5 MR. DONNELLY: In terms of the timing,  
6 if we could condition the CO on it --

7 MR. ALTMAN: If you want to knock it  
8 down after I get my building up before you get  
9 this one --

10 CHAIRMAN EWASUTYN: That's something  
11 that Mike is eluding to. We can tie it into a  
12 certificate of occupancy.

13 MR. ALTMAN: However you want to do it.

14 CHAIRMAN EWASUTYN: Thank you.

15 All right, Reg. Why don't you take us  
16 through it.

17 MR. WALTERS: We might start from the  
18 location if you want a sense of where we are in  
19 terms of the airport, in terms of 84 and in terms  
20 of 87. As you are probably already aware, we are  
21 in the flight path restricted zone. I think  
22 there's the runway. It actually goes over there.  
23 We do have height restrictions and we will be  
24 required to get a no hazard permit from the DOT.  
25 We're comfortable with that and we're moving

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forward with that.

As you can see the surrounding area, it's all compatible with the proposal. We do have some residences down here. I would suggest that that may -- over a period of time that might change. I don't think we're going to be impacting in the long term on any residential properties going forward.

On the site plan itself, in terms of the comment that Bryant made in reference to the one-story building, it's a one-story, one roof manufacturing area. Around the peripheral here on that side are the offices, and they're two story. So the bulk of the building itself is just floor to ceiling with this side, that western side, being the offices on two floors.

MR. BROWNE: The internal ceiling height is how high for the manufacturing area?

MR. WALTERS: For the manufacturing section I'm not too sure. Two stories, so 25 --

MR. ALTMAN: The inside. 26.

MR. WALTERS: 26, 28.

MR. BROWNE: So the thing for a one-story manufacturing is a lot different than a



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one-story office building. Okay.

MR. WALTERS: Right.

MR. ALTMAN: There's some mezzanines in it. It's 9,000 square feet for electronics. That's isolated.

MR. BROWNE: You have all the air handling stuff in there, the fumes and whatever?

MR. ALTMAN: I'll tell you, there's really no fumes.

MR. WALTERS: We'll submit the floor plans and internal elevations. I think that will make it clearer.

MR. MENNERICH: This facade you show here, is this facing west or facing 17K?

MR. WALTERS: That's facing here, west. This building here is facing 17K. Just by way of explanation, when this site plan was prepared and submitted the manufacturing plant architecture was well advanced. This is just hot off the press today. This is the first time I've really seen the proposal for the new building in the front.

MR. ALTMAN: The first plan was one building that sat this way on the property and we

1  
2 were going to use one-and-a-half sides for  
3 offices and the other side-and-a-half was going  
4 to be class A office space. I felt that kind of  
5 didn't fit too well, just what's happening up  
6 here on 17K and the airport. I felt it would  
7 be -- you know, isolate the offices from our  
8 building so I can get up here in one piece, move  
9 out of Yonkers in one piece and get situated with  
10 help and people and not worry about renting  
11 offices and stuff like that. Get this and put  
12 this in the back and then put a nice office  
13 building that's strictly an office building in  
14 the front. I kind of fit that in with what's  
15 happening up here and it works a little bit  
16 better.

17 MR. WALTERS: I'll take you through  
18 some of the utility issues. We have water and  
19 sewer available in the right-of-way. We can have  
20 connections to those. They are both in the water  
21 and sewer district.

22 Our stormwater management. We have  
23 located the stormwater management pond at the  
24 rear of the property. There was -- you know, we  
25 did look at the design of putting something in

1  
2 the front but then that rules out any further  
3 options that Bob might have for the future. He  
4 hasn't got anything specific in mind but he would  
5 just like to have his options open in terms of  
6 this front area here.

7           The parking, the parking requirements.  
8 We exceed the parking requirements by in the  
9 order of, when we're fully built out, about 50  
10 spaces.

11           I note one of the consultant's comments  
12 is that we could reduce the number of the spaces  
13 and provide extra landscaping buffer. That's  
14 certainly something we can review, and without  
15 impacting on our parking we can perhaps satisfy  
16 that requirement.

17           In terms of phasing, the idea is that  
18 Bob will build the plant in the back. This front  
19 area, given the fact there's going to be a year  
20 or perhaps even longer between the two  
21 operations, this would be all landscaping. It  
22 will be just straight lawn but it wouldn't be  
23 left, you know, just a disturbed area. It would  
24 be made into a parklike feature. It will all be  
25 graded and all the services and all the utilities

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2 are provided for the full build out. So  
3 everything will be in for the full build out.  
4 This will be left as a lawn area. At such time  
5 as this project then is ready to go, obviously we  
6 would have to make a site plan application for  
7 development of this side here.  
8       There has been a question raised about  
9 why we are proposing to provide some excessive  
10 amount of parking for the full phase I given that  
11 the parking requirement for phase I is in the  
12 order of 90 and we're going to be providing  
13 almost 300. The reason for that is purely a  
14 constructability issue. We have to get access to  
15 the rear. The trucks have to get access to, you  
16 know, the loading dock. So we're building this,  
17 we're building the back. We have to get access  
18 to this area here, so we'll be building that. It  
19 doesn't make a lot of sense just to cut out these  
20 parking stalls because, you know, from a  
21 construction point of view to go back and install  
22 a little bit here and a little bit here, it's  
23 kind of not cost effective. So that's kind of  
24 the rationale behind providing all those spaces  
25 in the first phase.

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CHAIRMAN EWASUTYN: Okay. Let's try and summarize it at this point so we can have our consultants speak and to see if there's any questions from the Board Members before we turn to our consultants. Frank Galli?

MR. GALLI: The driveway, the landscaped driveway going up to the property, how long is that going to be? 100 feet? 200 feet?

MR. WALTERS: It's more than that.

MR. GALLI: 500 feet?

MR. ALTMAN: 250.

MR. WALTERS: It's 200. 200 to 300.

MR. GALLI: That's strictly going to be road and landscape?

MR. ALTMAN: There's two lanes in each direction and a center divider with low shrubs so you can see cars both ways, and then 15 feet on each side that's landscape down with a wall and sidewalk, beautiful brick and nice sharp stuff going on. I know we have to come up with all the landscaping. We didn't get to that yet.

MR. GALLI: Now playing the opposite, say that building in the front doesn't get built for some odd reason, things go bad, the developer

1  
2 doesn't pay you the rest of your money and you're  
3 in there, is that going to stay green landscaped  
4 and that's it?  
5 MR. ALTMAN: Well, I have other ideas  
6 too if that doesn't happen, you know.  
7 MR. GALLI: You have to come back for  
8 site plan anyway. We just don't want to see a  
9 parking lot for the airport.  
10 MR. ALTMAN: Absolutely. That's going  
11 to happen whether it's an office building or  
12 something else. It's going to get built out.  
13 MR. GALLI: That's the only question I  
14 have.  
15 CHAIRMAN EWASUTYN: Cliff Browne?  
16 MR. BROWNE: Just to follow up a little  
17 bit. If the front building doesn't happen what  
18 are we looking at for a front facade say facing  
19 17K? What's that going to --  
20 MR. ALTMAN: We'll come up with a whole  
21 architectural landscaping proposal for you. That  
22 will be, you know, wall, it will be brick. It  
23 will be bricks or landscaped. It's a whole  
24 entrance. Are you talking about the entrance?  
25 MR. BROWNE: We're coming in the

1  
2 entrance, and at least until you build the front  
3 building we're going to be looking at the --  
4 MR. ALTMAN: I would like to do the  
5 entrance next year and get that done already, get  
6 a plan in here that you love and at least fix the  
7 front entrance.  
8 MR. BROWNE: We have had a lot of folks  
9 come in with a lot of good intentions.  
10 MR. ALTMAN: I know that. Talk is  
11 cheap, I know.  
12 MR. BROWNE: If it doesn't happen what  
13 are we left with?  
14 MR. WALTERS: Obviously during that  
15 interim period -- there is a reasonable grade  
16 going up here so you're actually looking towards  
17 the sky line to some extent. This facade here is  
18 not -- what would you say -- architecturally  
19 designed to present to the public. If this is not  
20 there what are you seeing there?  
21 MR. ALTMAN: A wall and shrubs.  
22 MR. WALTERS: The wall of a  
23 manufacturing building.  
24 MR. BROWNE: Where we're coming from is  
25 we would want to have that presentable enough so

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if the front doesn't happen --

MR. ALTMAN: Absolutely.

MR. BROWNE: -- it's appropriate.

MR. ALTMAN: Absolutely.

MR. WALTERS: Okay. That would come out during the architectural review and you would see the renderings and we would be proposing something that will satisfy that.

MR. ALTMAN: That wall and landscaping and everything will be done before the building.

MR. BROWNE: I'm looking at the wall and I'm saying assuming the front building doesn't go in, you don't want to kill yourself on that either, the back one. There's a trade off there someplace.

MR. ALTMAN: You should look at some of the pictures I've got with the landscaping. I'll be glad to show them to you right now.

CHAIRMAN EWASUTYN: For the sake of time, it's late in the evening, if you want to leave something you can leave it with Dina Haines who will make it available in the office. At this point I'd like to move through the site plan, get it over to our consultants for their



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comments and sort of take advantage of the time  
and at the same time move forward.

Ken Mennerich?

MR. MENNERICH: Just continuing on, I  
guess if that other building doesn't get built I  
don't think we want to see the metal type facade.

MR. ALTMAN: Mm'hm'.

MR. MENNERICH: Just in case phase II  
didn't happen, we would want to see something  
similar to brick or whatever you're using.

MR. ALTMAN: We could put a lip on the  
building that if for any reason that building  
didn't get built we could go straight up and  
brick that side like the front, like the west  
side, just to make you feel comfortable that if  
it didn't happen, which it is, but if it didn't  
happen that we would brick the rest of the way  
up. We can do that. We can work it out. The  
foundation, maybe put a lip on the bottom like  
that.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: If I go to your website  
will I get a view of your factory that's in  
Yonkers or am I going to get --

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MR. ALTMAN: I'm not good on the computer. My whole place runs on -- the website, I don't know if the buildings are on there. Certainly our product line and about the company is on there. I would love for somebody when passing through Yonkers to come in and see us. A picture is worth a thousand words.

MR. O'DONNELL: Let me give you my opinion. I think what you've presented is professionally done. It's certainly to my liking. On the other hand, the way we operate is straightforward, demanding. You've got to meet the rules.

MR. ALTMAN: No problem.

MR. O'DONNELL: We're rules guys, we're rules oriented but we have to think we do the best things for our Town. So we're going to expect you to do that.

MR. ALTMAN: Absolutely. I would expect you to hold me to the fire.

MR. O'DONNELL: I'm happy to see industry coming here, jobs. It's a great thing to do. We'll pursue this.

MR. ALTMAN: It's not a matter of if,

1  
2 it's when. Building 214, Story Towers, is on the  
3 south side of me right now and then there's the  
4 Yonkers Water Works, there's a park which I sold  
5 to Scenic Hudson about ten years ago. We're the  
6 next piece next to the train station. Usually  
7 the density next to train stations are the  
8 highest densities, so we're the next piece to go.  
9 We're talking to three or four different  
10 developers now.

11 MR. O'DONNELL: Then you shouldn't run  
12 out of money building this place.

13 MR. ALTMAN: I shouldn't. To tell you  
14 the truth, I shouldn't.

15 CHAIRMAN EWASUTYN: Joe Profaci?

16 MR. PROFACI: I'm good for now. Thank  
17 you.

18 CHAIRMAN EWASUTYN: We'll start with  
19 Ken Wersted to introduce us to the project as  
20 he's driving either a truck or a vehicle into the  
21 site. Ken Wersted is our Traffic Consultant.

22 MR. ALTMAN: We're going to need you.

23 MR. WERSTED: I went out and I took a  
24 look at the site. There's not much to see right  
25 now. I stopped on the side of the road near

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where the entrance was. I had noted that the entrance is approximately halfway between the Corporate Boulevard traffic signal and the traffic signal to the east where the National Guard entrance to the airport is.

I notice also in the E.A.F. that a traffic study is being prepared. We'll review that in more detail.

Just going through the site and looking at the details that are provided, I noted that you probably aren't going to need four lanes at the entrance drive, two entering and two exiting. You can probably neck that down to have one possibly wider than usual lane entering to accommodate your trucks, and then on the exit you can probably have one that's interior to the site, and as you get out toward Route 17K widen that out to two lanes and that will provide less paving width and also help out the things Karen has with the landscaping.

The trucks are obviously going around the side. It looks like the larger sized trucks can be accommodated over there. If you've got trucks heading in that direction you might need a

1  
2 little signing to say this is the truck route,  
3 turn right here. With the two buildings there  
4 you're probably going to need some type of way  
5 finding, turn left, go around the back, and the  
6 general office would be right in front of you.  
7       Some of our other comments: As part of  
8 the traffic study and as part of the signing plan  
9 the MUTC numbers are changing from the New York  
10 State to the Federal, so those just need to be  
11 updated.  
12       In going through your traffic study  
13 it's likely you're going to need to widen Route  
14 17K to provide a left-turn lane to get traffic  
15 in. There are left-turn lanes down the road on  
16 either end of that.  
17       MR. ALTMAN: How do you come out of  
18 there and make a left? You know, if you see a  
19 break for people traveling west and then you try  
20 to make a left -- sometimes you wait there  
21 five minutes. If I've got 100 people and there's  
22 200, that's 300 cars coming out of there, you  
23 know.  
24       MR. WERSTED: It will be less likely  
25 DOT has to do something than you have to do

1  
2 something. So obviously when you're looking at  
3 the traffic study you may want to look at a  
4 warrant for a traffic signal. There may be other  
5 options. One possibly might be to time the two  
6 lights such that they provide the gaps that you  
7 need to make a left out. The widening in itself  
8 will also help accommodate left turns out of the  
9 site by being able to turn into a median and then  
10 get into the eastbound travel lane.

11 One of the other options that we threw  
12 around was emergency access out the back to one  
13 of the neighboring properties. As part of that  
14 you'll have to look into those issues.

15 MR. ALTMAN: There's a road. There's a  
16 road right here that's a hard road that goes all  
17 the way to the back. I think you said the fire  
18 department would like to come in through here.

19 MR. WALTERS: Sometimes -- yeah.

20 MR. ALTMAN: There's access into here  
21 off of this road in the back here, too. Like  
22 emergency vehicles. It is rough getting out of  
23 there.

24 MR. WALTERS: I think it's quite  
25 feasible given the grades.

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MR. O'DONNELL: That's going to be the most challenging part for you I think is this traffic issue.

MR. WALTERS: I can say from Bob's perspective when he came to us he said the most important thing for me is to make sure the people who work for me and are going to occupy this building have safe and convenient access to and from the site.

MR. ALTMAN: They come barreling down that road 50 miles-per-hour and you're trying to get out, it's a little shaky.

MR. WALTERS: We have had a DOT inspector out there at the location -- preferred location for the access and also the issues that you've spoken to already about, the existing traffic lights. Out of the study and out of the discussions with DOT I'm sure we'll come up with something that works and satisfies both.

MR. ALTMAN: I want to do it right and make it as safe as possible, you know.

CHAIRMAN EWASUTYN: Additional comments, Ken?

MR. WERSTED: When we get that material

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we'll provide further comment.

CHAIRMAN EWASUTYN: Pat Hines, let's discuss the proposed detention pond and drainage.

MR. HINES: I think you have my site plan comments. In reviewing the site plan I noted that the proposed detention pond is located actually on the current highest elevation of the site and you're kind of bumping grade with the detention pond. It looks to me it would work better in the front where the existing structure was. That was our initial take on that because you're putting the retaining wall and changing site grades in order to construct the detention pond up on the highest portion of the site. We don't have a stormwater management report yet but you're putting in an awful lot of piping to get water to the back and bringing water from the back out to the front.

MR. WALTERS: We've done that.

MR. HINES: I see you're agreeing with me.

MR. WALTERS: We did that. We put a lot of work into making sure that does work. We know it works hydraulically. The point is that



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it will be much better in the front. I totally agree in terms of engineering and in terms of cost. No doubt about that. That closes any future option for this front portion.

MR. HINES: One of the things you need to look at is your lot coverage. When you're thinking future options I think you've got quite a lot of impervious surface there. You may be nearing your limits there. That's something you have to take a look at. I don't want to put too much emphasis on it. You'll have lot coverage issues that you may be addressing. We'll continue to look at that.

I know there's a large retaining wall to the rear that's needed in order to also construct that detention pond. Again, we'll review it as it goes. It seems a little backwards but it may work. We'll look at it.

Water and sewer, that hasn't been addressed yet but we'll look at that. I don't know if you need a pump station to make the grades there. Have you looked at that yet from the rear all the way out --

MR. WALTERS: To make the --

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MR. HINES: In order to get the sewer.

MR. WALTERS: I think we've got gravity. That actually depends on where you're going into the building to be perfectly honest. It's what we need to examine more closely where our building connection points will be.

MR. HINES: The residence isn't allowed in the IB Zone. You may be able to work out something with the building department, the zoning department to allow it to remain for an office use or something key to a CO. That's something that has been done in the past.

Drainage improvements within the DOT right-of-way, we'll require their approval and consent to install those.

There's a change in contour interval on the plans. It's a little confusing when you have two footers and it switches to one footers. You have to be consistent there. I can provide you with standard notes for water and sewer, although your Newburgh office may have them in the files available.

The phasing I have some concerns about. What if the first -- the second phase doesn't

1  
2 happen? Some of the parking you're constructing  
3 under phase I is very far away from the proposed  
4 manufacturing use and it really doesn't seem to  
5 function as an initial phase. I didn't know if  
6 maybe that could be staged a little different  
7 leaving the first phase -- the second phase area  
8 in a condition that it is now and staging your  
9 construction. You seem pretty confident you're  
10 going to build that phase II. We have had  
11 experiences in the past where phase IIs don't  
12 come as rapidly as the developer anticipates.  
13 We'll be looking at how that's going to work on  
14 the site and how that will look in the long term.  
15 That's my comments.

16 CHAIRMAN EWASUTYN: Okay. Bryant  
17 Cocks, Planning Consultant?

18 MR. COCKS: One of my first concerns  
19 was the actual lot coverage as Pat said. There's  
20 a lot of asphalt on there and with the two  
21 buildings it's going to be covering a large  
22 portion of the site. You mentioned that the  
23 front portion could possibly be developed along  
24 with the lot coverage problems. There's also a  
25 sixty-foot setback that you have to maintain and

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2 a thirty-five foot landscape buffer. I don't  
3 think there's going to be room to put anything on  
4 this to begin with. That and the lack of green  
5 space, I think you guys really should look at  
6 trying to either put the detention pond up there  
7 with a lot of landscaping around it or really  
8 utilizing that as green area to kind of mitigate  
9 the rest of the asphalt on site.

10 I was also wondering if the area in  
11 between the two buildings is all paved in there?  
12 There's only parking spots on half of it. Is  
13 there like outdoor storage you guys need that  
14 area paved for?

15 MR. WALTERS: Well, as I said at the  
16 start, when we proposed this phase II building it  
17 was conceptual. When we submitted the  
18 application that's what we thought was going to  
19 happen so we tried to provide the contingency for  
20 moving forward with that concept. I think,  
21 correct me if I'm wrong here Bob, but we had some  
22 idea that the back space here would be sort of  
23 like flex space, smaller type warehouses that  
24 would require access by delivery trucks,  
25 et cetera. So these would all be -- these would

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all have access to this area here.

MR. ALTMAN: If we did the flex space.

MR. WALTERS: Well, that's the flex space there. This would provide a turnaround for a vehicle. It's more maneuverability space and access to this flex space here. We're a long way from being completely certain on that.

MR. ALTMAN: If we made it straight class A office space the back could be landscaped more going out in that area.

MR. WALTERS: To be perfectly honest, this is kind of like a work in progress.

MR. COCKS: I don't know what kind of trucks will be able to turn around back there. I mean how much is that?

MR. WALTERS: I think we ran some models. We can get smaller delivery type trucks through there. You know, Fed Ex, UPS type trucks around there.

MR. COCKS: They've already addressed most of the architectural comments and some of the phasing comments that I had.

We also mentioned the flight path zone that's going to be there. You'll need a permit.

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I guess that's about it for now.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: It might be nice if -- I don't know if this works at all but it might be nice to consider a green space between the building and orient the offices towards that green space. On your rendering you're showing all this green space in front of the offices of your building. That isn't going to be there according to the measurements on the plan. Just a thought, maybe if you made this entryway like a courtyard space with green space between both buildings it would be -- and then the nice part of the facade will be facing the highway. So even if you don't build phase II you would still have like the nice part of the building facing out. Anyway, just an idea for you to think about.

I would like you also, when you're looking at this plan, to try to think about a low-impact development. Like Ken said, you probably don't need these two lanes here and if you narrowed it to one lane you could save more trees. Look around the site and see where that's

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possible, where you could limit some of the pavement and try to get more green space. It is a lot of blacktop and asphalt and buildings. There's hardly any green space.

MR. ALTMAN: I think we need to work on that.

MS. ARENT: That would be great.

MR. ALTMAN: I think we need to work on that.

MS. ARENT: Try to save some kind of border, whether you save existing plant material or you plant more. There's a lot of plants on the site that you could just save if you can get the grades to work out. Just study some of the visual impacts.

I had specific tree planting material comments. That's about it.

CHAIRMAN EWASUTYN: Mike, do you have anything to add at this point?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: A minor note. Reg, you have to change your drawings. You have a note that this is going to be filed in Dutchess County. Where is that sheet? Owner application

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it says the filing of this plat in Dutchess County Clerk's Office.

MR. WALTERS: Okay. Wrong county.

CHAIRMAN EWASUTYN: I think it's interesting. I'm a little set back. I think it's a great program. When I hear work in progress, when I hear about the other building as far as doors and trucks pulling in and pulling out, I realize that overall I like the plan but I fully don't understand what you're grasping for. I think you're smart and I think you're looking to maximize the use of the property based upon your history maybe in Westchester. You were successful ten years ago selling something off so you're very good at parlaying things. You're leaving all your chips out there to really increase your nest egg, which is great, that's why you're successful.

MR. ALTMAN: I understand what your concerns are.

CHAIRMAN EWASUTYN: I don't really understand how this is going to blend in, if there are going to be trucks being staged out there, if there are going to be pallets. The full



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2 activity. If you could come back to us with a  
3 concrete idea of what just came off the press and  
4 say this is how the plan is going to be, this is  
5 how we're going to be designing it, this is how  
6 it's going to work, then I think we have a  
7 workable program.

8 MR. ALTMAN: Okay.

9 CHAIRMAN EWASUTYN: I don't know if  
10 we're ready yet to approve the concept.

11 MR. ALTMAN: It needs some work.

12 CHAIRMAN EWASUTYN: Okay. If you're  
13 comfortable with that.

14 The only thing that I ask Mike is if  
15 we're ready to declare our intent for lead agency  
16 or should we wait until --

17 MR. DONNELLY: I don't see any reason  
18 why we can't do that.

19 CHAIRMAN EWASUTYN: Okay. Why don't we  
20 accomplish that this evening. We'll move to  
21 declare our intent for lead agency.

22 MR. PROFACI: So moved.

23 CHAIRMAN EWASUTYN: I have a motion by  
24 Joe Profaci.

25 MR. GALLI: Second.

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CHAIRMAN EWASUTYN: A second by Frank Galli. Any discussion of the motion?

MR. MENNERICH: Do you have to send a plan when you --

CHAIRMAN EWASUTYN: We do. I think the footprint -- you're going to be working within the same footprint. I hear what you're saying. That's why I ask you what do you think?

MR. DONNELLY: It's not carved in stone. Everything changes. You're right, it's likely to shrink, not grow.

MR. ALTMAN: We want some more green space, some more landscaping.

CHAIRMAN EWASUTYN: We want you to have a better understanding of what it is you're looking to design based upon what you feel the end use of this building is going to be. Is it going to be flex space?

MR. ALTMAN: I started -- I spoke with a real estate fellow up here and he said -- this is when I purchased the property in February. He said you're probably better off with office space in the front and flex space in the back because that's where the market is, for that kind of

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2 thing. I'm kind of looking at what's happening,  
3 the Port Authority buying the airport and you can  
4 see the building for the entrance ramps and exit  
5 ramps. The handwriting is on the wall that  
6 they're going to push the airport. You turn on  
7 the news and they want to limit the flights from  
8 107 flights on peak hour down to 81. You can see  
9 the emphasis is to push traffic up into the  
10 airport. I'm saying maybe we'll need to market  
11 class A office space by the time this thing is  
12 built. Jet Blue or Continental or something  
13 would probably like something like that. That  
14 was the idea with the difference between first  
15 starting with office in the front, flex space in  
16 the back and then turning it around. Then we  
17 went straight to like a class A office space.

18 CHAIRMAN EWASUTYN: Robert, what do you  
19 think you might wind up with between now and when  
20 you come back? That's the question before us.  
21 While you're in Florida think about it.

22 MR. ALTMAN: I'll tell you, I wasn't  
23 going to talk about it today because we didn't  
24 want to throw too much at you.

25 CHAIRMAN EWASUTYN: Do you want us to

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leave the room and you can --

MR. ALTMAN: No, no. This is I guess a good time to talk about it before we go on a wild goose chase.

CHAIRMAN EWASUTYN: I think that's important. That's really what I like to do.

MR. ALTMAN: Put it on the table, that's my style. The idea was that if it doesn't work, it doesn't work, just leave it out. The idea was on this plan we have this road going here this way and we had so many spaces. I had to cut down the building a little bit and bring the service road up into here. This would bring it from like 1.6 to like 2.8 acres in the front. I thought that a high-end lodge, like Steinricks in New York City with big notch beams, beautiful high-end restaurants and maybe twenty rooms in there would fit and serve the community. I haven't seen that up here. I don't know the area too well, I've just been back and forth. We did this and then I says well how about in the front if we put a beautiful high-end like Montana log lodge, Control Tower Sports Bar & Grill, a place that would be really a beautiful place. It would

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2 be a high-end type of place but reasonably priced  
3 but it would be a really good place.

4 MR. O'DONNELL: I want you to know that  
5 it wasn't too long ago we had somebody in here  
6 and they proposed a topless steakhouse.

7 MR. ALTMAN: My contention was if you  
8 had an office building with a Jet Blue you would  
9 have the pilots, you would have the stewardesses.  
10 Maybe they didn't want to stay at the Holiday  
11 Inn, they wanted a place where you could have a  
12 beautiful library and, you know, you have  
13 wonderful desserts and fancy drinks and cognacs  
14 and really a beautiful high-end type of Montana  
15 type lodge. Maybe we'll eliminate the office and  
16 think about a lodge. Maybe we can fit it in if  
17 we can find a combination that satisfies the  
18 right way of doing things. Like I said, there's  
19 one way of doing things. Obviously if we did  
20 that, that would be a separate piece of property  
21 that I would break off of that.

22 So the idea was to get this in and  
23 prove ourselves, get up here and prove ourselves.  
24 At least get our building in here and move up  
25 here and make it look beautiful and grade the

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2 place and hydro seed it so there's no erosion or  
3 nothing like that, and then maybe decide to put  
4 the lodge in first because that would help sell  
5 the office space. The idea of -- you know, it's  
6 right on the front of 17K there -- for a  
7 beautiful high-end type lodge and hotel.

8 CHAIRMAN EWASUTYN: These are things we  
9 have to define between now and the next time you  
10 come back so we can all think together and work  
11 together.

12 MR. ALTMAN: That was the long-term  
13 idea, you know. Might as well put it all on the  
14 table.

15 MR. DONNELLY: One of the issues that  
16 the Board will face is whether or not from the  
17 SEQRA, the environmental analysis point of view  
18 we should make a number of assumptions about the  
19 total build out and address the stormwater, the  
20 traffic, the issues that come from that full  
21 build out now rather than do it piecemeal.

22 MR. ALTMAN: Well, I'm under the gun  
23 too. I mean I have time as long as we've -- tell  
24 it just like it is and straight up, that's  
25 probably the way to do it. I just didn't want to

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2 hold up my portion to get -- when I have to move  
3 with the developer I've got a year to build and  
4 all of a sudden I can't get approvals to at least  
5 get my building in there. We will take a look at  
6 it. I certainly can see the concerns that you  
7 have, and you're right. You're right, I think we  
8 have to go back -- the building, our building,  
9 that's done, what it's designed. I think the  
10 right way to do it is to push it in the back and  
11 put something nice in the front. Whether it's a  
12 combination of a high-end type of lodge and a  
13 smaller building or maybe just an office building  
14 or just a lodge, I don't know.

15 MR. WALTERS: I guess from our  
16 perspective trying to address the segmentation  
17 problem we probably advanced ourselves on the  
18 front end trying to overcome that segmentation  
19 issue. We know exactly what we're doing here,  
20 we're not a hundred percent certain what we're  
21 doing here but we want to bring it in to the  
22 picture so we can do the SEQRA, then we come  
23 across as like you don't really know what you're  
24 doing. It's a balance.

25 CHAIRMAN EWASUTYN: I don't think we

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2 meant it that way. As you described it it wasn't  
3 a clear picture and that's why I raised that  
4 issue.

5 I think right now, just to stay  
6 focused, I had a motion from the Board to declare  
7 our intent for lead agency by Joe Profaci. I had  
8 a second by Frank Galli. I opened it up for  
9 discussion. I had comment from Ken Mennerich.

10 Ken, was your question answered?

11 MR. MENNERICH: Yeah.

12 CHAIRMAN EWASUTYN: I'm just going back  
13 to where we were in the motion before us. Were  
14 you satisfied?

15 MR. MENNERICH: Mm'hm'.

16 CHAIRMAN EWASUTYN: If not we can hold  
17 off on declaring intent.

18 MR. MENNERICH: No.

19 CHAIRMAN EWASUTYN: Any further  
20 discussion?

21 (No response.)

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

24 MR. GALLI: Aye.

25 MR. BROWNE: Aye.



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MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

Bryant, you would be circulating.

Reg, it will be necessary to get the necessary materials to Bryant Cocks, our Planning Consultant, who will circulate for lead agency.

Robert, in the meantime if you could begin kind of formalizing your vision. We look forward to receiving --

MR. ALTMAN: What do you think? You know the area, you live here. What do you think of the idea of an office building? Does the Town like that idea? What do you think about the idea of a nice lodge?

MR. HINES: The problem I see with the lodge is that zoning requires 5 acres for that use.

MR. ALTMAN: Maybe eliminate the office building and build a really nice lodge there. What would the Town like to see? What would you rather have?

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MR. HINES: Watch out for your neighbors with the hotel.

CHAIRMAN EWASUTYN: You may want to approach the Town Board and look to be on a work session with the Town Board and get some feedback from the Town. That might be a possibility.

MR. ALTMAN: I would think you'd see hotels going up there and --

CHAIRMAN EWASUTYN: Right next to yours there is.

MR. ALTMAN: There's rooms for \$99 a night. You certainly can't charge --

MR. GALLI: There's a hotel going up that's having a problem.

MR. ALTMAN: Pardon?

MR. GALLI: Right now there's a hotel that's going up that's having a problem.

MR. ALTMAN: Down on the 8-acre piece?

MR. GALLI: Corporate Boulevard.

MR. MENNERICH: It's proposed.

MR. GALLI: The corporate park.

MR. ALTMAN: East of this?

MR. WALTERS: West.

MS. ARENT: Right next door to your

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property. It shares your property line.

MR. ALTMAN: Somebody called six months ago looking to buy that piece.

CHAIRMAN EWASUTYN: I'm going to adjourn on to other business for now. Nice to meet you.

MR. ALTMAN: Thank you. Thank you, everybody. We'll get back to you.

MR. WALTERS: Thank you, Mr. Chairman.

(Time noted: 9:30 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: November 23, 2007

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

----- X

In the Matter of

RHODA REALITIES  
(2007-41)

Southern side of Highland Terrace  
Section 20; Block 8; Lot 77  
B & R-3 Zone

----- X

CONCEPTUAL SKETCH PLAN  
FOUR-LOT SUBDIVISION

Date: November 15, 2007  
Time: 9:30 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

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CHAIRMAN EWASUTYN: The next item of business we have this evening is Rhoda Realities. It's a conceptual sketch plan for a four-lot subdivision on the southern side of Highland Terrace in an R-3 Zone. It's being represented by Jonathan Cella.

MR. CELLA: The existing parcel is 8.65 acres. It's split zoned, B and R-3. It fronts on Highland Terrace and Route 9W. Currently the proposal is to create three residential lots all off of Highland Terrace, two sharing a common driveway on the eastern side and one on the western end of the parcel with a single driveway.

The residential lots are approximately an average of 1.4 acres with 4.5 acres left in the B zone which we have no current plans for development at this time.

CHAIRMAN EWASUTYN: I'll take comments from our Planning Board. Bryant Cocks?

MR. COCKS: As he mentioned, the front of the site is zoned B. We are going to have to see just a building envelop and stuff like that in there just to make sure it's actually

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developable.

Also, since it's bordering a residential zone you're going to have to show where the buffer would be in there.

The wetlands have to be delineated on the site.

There's just two houses up there?

MR. CELLA: Yes.

MR. COCKS: We just need to see the property lines and septic locations with that.

These lots are pretty much going to be in between McCall Place and Highland Terrace. It's pretty much going to be in a couple people's backyards. I would like to see some screening if possible. I know it's not required for residential to residential but I think because of the nature of the location of these houses, that it would probably be favorable, and it's probably going to be asked for at the public hearing, which I think there's going to be a lot of people for.

We're going to need a surveyor's seal and signature, a better location map. We're going to need whatever language you have for the

1  
2 thirty-foot wide drainage easement that's on the  
3 commercial site. You guys are going to need a  
4 common driveway maintenance agreement for lots 6  
5 and 7. If you guys could just label, just for  
6 clarification, the original lot numbers on the  
7 plan since they just start at 5.

8 Other than that, they meet all zoning  
9 and setbacks so they won't require any variances.  
10 Just add that stuff to the plans.

11 CHAIRMAN EWASUTYN: Pat Hines?

12 MR. HINES: Lot 4, the lot that's in  
13 the B zone there, is less than 5 acres so you  
14 need to show some use on there and an  
15 appropriately sized subsurface sanitary sewer  
16 disposal system for some permitted use. Whatever  
17 it is, show that it is a usable lot because it's  
18 less than 5 acres.

19 Confirmation that the adjoining lots  
20 are served by Town water. I think Bryant asked  
21 you to show the house locations and such. Just  
22 show that they are actually connected to Town  
23 water so there's separation from the wells.  
24 The separation, lot 4 and the wetland area shown  
25 on lot 5 is less than 100 feet so we need to take



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a look at where that septic falls.

Lot 5 has what appears to be a large  
depressional area in the driveway area there. I  
don't know if that fills with water or there's a  
drainage issue.

MR. CELLA: It's all bank run. When we  
did the soil testing, the soil on that end of the  
property is just --

MR. HINES: That's actually lower than  
the area that you show of the wetland.

MR. CELLA: Yeah. There's a little  
ridge in here. This wetland area, I did walk the  
property, it seems -- we're going to have to  
delineate it.

MR. HINES: Because it was filled?

MR. CELLA: I don't know. It seems to  
be more of a dumping ground.

MR. HINES: I think that entire front  
lot was filled at some point.

MR. CELLA: There's coolers and car  
parts.

MR. HINES: I think you'll find that  
was filled.

Take a look at the finished floor

1  
2 elevations and the drainage in that area. The  
3 topo is shown in the hole there.  
4           You need a road name on the frontage  
5 there and a shared access agreement for the  
6 driveways for Mike Donnelly. That's all we have.  
7           CHAIRMAN EWASUTYN: Comments from Board  
8 Members. Frank Galli?  
9           MR. GALLI: Not at this time.  
10          MR. BROWNE: No.  
11          MR. MENNERICH: No questions.  
12          MR. O'DONNELL: No comment.  
13          MR. PROFACI: No comment.  
14          CHAIRMAN EWASUTYN: Just for the maps,  
15 as Ken Mennerich had pointed out during the work  
16 session, can you note the sight distance in feet?  
17          MR. CELLA: Sure.  
18          CHAIRMAN EWASUTYN: You go from one to  
19 the other.  
20                I'll move for a motion from the Board  
21 to grant conceptual sketch plan approval for the  
22 four-lot subdivision for Rhoda Realities and to  
23 circulate it to the Orange County Planning  
24 Department.  
25                MR. BROWNE: So moved.

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MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Cliff Browne. I have a second by Ed O'Donnell.  
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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So  
carried.

MR. CELLA: Thank you.

(Time noted: 9:37 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: November 23, 2007

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

----- X

In the Matter of

WOODLAWN HEIGHTS  
(2003-47)

Wenmar Drive between Willella Place & Woodlawn Ave  
Section 73; Block 2; Lot 78.3  
R-3 Zone

----- X

AMENDED SUBDIVISION  
SEVENTEEN-LOT SUBDIVISION

Date: November 15, 2007  
Time: 9:38 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

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

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CHAIRMAN EWASUTYN: The next item on the agenda is Woodlawn Heights. I have it listed as an amended subdivision for a seventeen-lot subdivision located on land between Willella Place and Woodlawn Avenue. It's in an R-3 Zone and it's being represented by Jim Raab.

MR. RAAB: Basically what we're trying to do here is cut the cost and the maintenance down to the original drainage that was approved on the site by implementing dry wells on the individual lots. Darren had supplied Pat with some information earlier this year, I believe around July, and Pat had a chance to take a quick look at it and then gave Darren some direction there, and then Darren submitted some more stuff later on in the year, then it was decided we should bring it back before you once we got that far. Darren has no problems with the comments that Pat made. He can take care of all of that. We already submitted paperwork to the Town Board to get the drainage re-approved if, you know, it's okay with the Planning Board.

MR. HINES: I think that's the direction we need to head.

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As we were discussing this we did receive approval from the Town Board and the highway superintendent for placing the stormwater improvements underground within the right-of-way and now there's a change proposed. As long as they can address my technical comments and the Town Board re-approves that, I think they'll be on their way.

Jerry Canfield was here at work session and was a little surprised about a question posed about obtaining a building permit.

MR. RAAB: Somebody submitted a building permit?

MR. HINES: Somebody is looking for a building permit on one of the lots.

MR. RAAB: I'll take care of that. Goodbye, see you later.

MR. HINES: That's the only thing I have.

CHAIRMAN EWASUTYN: We received from Jim Osborne's office a check for \$25,000 for the inspection fees.

MR. RAAB: That's because there wasn't a bond submitted, okay. What we wanted to do is

1  
2 we wanted Jim's office to inspect the work that's  
3 been done out there. To do so -- they can't do  
4 it unless they have an inspection fee. That's  
5 why the check was submitted.

6 MR. HINES: I think Mr. Osborne's  
7 office was caught a little surprised when they  
8 found out --

9 MR. RAAB: He talked to me about it.

10 CHAIRMAN EWASUTYN: Do you want to  
11 manage this through Jim and Darrell as far as --

12 MR. HINES: I will. Jim involved me.  
13 I was here at work session the other day and Jim  
14 grabbed me and said what's happening with  
15 Woodlawn.

16 CHAIRMAN EWASUTYN: So the action  
17 before us tonight is really just to set up a  
18 meeting between yourself, Jim Osborne, Darrell  
19 Benedict to --

20 MR. HINES: Yeah. I'm assuming the  
21 Town Board, whoever wants to be there. Last time  
22 Mr. Woolsey and Mr. Booth were there.

23 CHAIRMAN EWASUTYN: Then I would move  
24 for that motion.

25 MR. MENNERICH: So moved.



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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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Let's end the mystery as far as Jerry Canfield saying that you were going to be -- Stewart Senior Housing was going to on Board business tonight.

MR. RAAB: I didn't say it was going to be on Board business tonight. Jerry told me it had already been on Board business.

CHAIRMAN EWASUTYN: What's your question then?

MR. RAAB: My question is what is the

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status of the clearing and grading application?

CHAIRMAN EWASUTYN: And who -- are you speaking for Harry Lipstein?

MR. RAAB: Yes.

CHAIRMAN EWASUTYN: Okay.

MR. HINES: My understanding was we had a discussion, I don't know, a month ago or so regarding the clearing and grading permit and that it was approved here by the Board with the condition that adequate security for the ground disturbance, at which time it was 2.7 acres of disturbance at \$4,000 an acre is the number we've been using for that. So with posting of, I think we rounded it up to \$12,000 and three acres security, that that was fine. I don't know if that was memorialized in a resolution or an approval.

MR. DONNELLY: I'm looking for that here. I don't know if it was. I know we talked about it.

MR. HINES: Because the project would not need that if it has final approval and they're looking to start prior to final approval because I think they're waiting for Health

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Department approval. So they came in and asked for the clearing and grading permit. Had they had final approval that would be covered under the normal course of a site plan review.

MR. DONNELLY: There is another issue on this one. My notes indicate that this resolution of conditional final was granted on December 6 -- December 14, 2006. It's only good for 360 days, so we're fast approaching.

MR. RAAB: If we're going to amend the subdivision then do we need another public hearing?

MR. DONNELLY: It depends upon the extent of the changes. What I'm wondering is whether we should step it back down to a preliminary. If it expires and you're not back on the agenda by that date you're going to be starting over.

MR. RAAB: I was going to bring it up, Mike, before I left.

MR. DONNELLY: We talked about the issue and policy wise what you might want to do if there were going to be a lot of these. It seems like the few we've had are people who have

1  
2 not been able to, for whatever reason, complete  
3 the conditions. Once the final expires after  
4 360 days I don't think you have the power to  
5 revive it. If they applied again you would be  
6 hard pressed not to re-approve it. What we've  
7 done in another case is at the applicant's  
8 request substitute for the final approval a  
9 preliminary approval. They can then come in with  
10 the amendments and you can grant a new final  
11 approval and we're off and running for another  
12 year.

13 CHAIRMAN EWASUTYN: That was in the  
14 case of a site plan where they had the two years  
15 and they were granted the additional one year.

16 MR. DONNELLY: A conditional final  
17 subdivision, it's a State law now, 180 years --  
18 180 days and they can be extended for one  
19 additional period of 180 days. So it doesn't  
20 even equal a full year. If it was December 14th  
21 it's probably going to be December 6th, which is  
22 less than a month away. My thought was if we're  
23 not going to get this back before the Board in  
24 that time period we should entertain a request  
25 and knock this back down to a preliminary,

1  
2 otherwise we're going to run into that problem.  
3 MR. RAAB: I would like you to give it  
4 preliminary approval.  
5 CHAIRMAN EWASUTYN: So the action  
6 tonight would be to --  
7 MR. DONNELLY: Grant the request.  
8 CHAIRMAN EWASUTYN: -- to rescind the  
9 conditional final approval for the seventeen-lot  
10 subdivision for Woodlawn Heights and to grant it  
11 preliminary approval. Is that correct?  
12 MR. DONNELLY: Yes.  
13 CHAIRMAN EWASUTYN: I'll move for that  
14 motion.  
15 MR. PROFACI: So moved.  
16 MR. MENNERICH: Second.  
17 CHAIRMAN EWASUTYN: I have a motion by  
18 Joe Profaci. I have a second by Ken Mennerich.  
19 Any discussion of the motion?  
20 MR. GALLI: What does he do when it  
21 comes time and he wants to build a house? He has  
22 to come back again for final?  
23 MR. DONNELLY: He's going to have to  
24 get a new final.  
25 MR. HINES: It will amend his final

1  
2 anyway and he can walk it with whatever was  
3 outstanding conditions. I think it was posting of  
4 securities  
5 MR. RAAB: Really the posting of the  
6 bond. That's all.  
7 MR. GALLI: Before he can do anything  
8 he has to come back on the agenda?  
9 MR. RAAB: Yes.  
10 MR. HINES: He can build the roads at  
11 preliminary without posting bonds. That's  
12 covered.  
13 MR. GALLI: The roads are in.  
14 MR. DONNELLY: He can build or bond.  
15 MR. HINES: In lieu of bonding they're  
16 building right now. I think they got ahead of  
17 themselves with Jim and Jerry.  
18 MR. RAAB: I don't know what the  
19 building permit -- that's the first I've heard of  
20 it. I'll get to the bottom of it tomorrow.  
21 MR. HINES: The answer was no.  
22 CHAIRMAN EWASUTYN: I have a motion by  
23 Joe Profaci. I have a second by Ken Mennerich.  
24 Any further discussion of the motion?  
25 (No response.)

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2 CHAIRMAN EWASUTYN: I'll move for a  
3 roll call vote starting with Frank Galli.  
4 MR. GALLI: Aye.  
5 MR. BROWNE: Aye.  
6 MR. MENNERICH: Aye.  
7 MR. O'DONNELL: Aye.  
8 MR. PROFACI: Aye.  
9 CHAIRMAN EWASUTYN: Myself. So carried.  
10 Let's go back. Did we memorialize --  
11 MR. DONNELLY: Steward Avenue Senior.  
12 I don't have that in my computer. I have the  
13 resolution here. If it isn't done I'll check it  
14 first thing in the morning.  
15 CHAIRMAN EWASUTYN: That was the  
16 opposite. I'm surprised that -- actually I'm  
17 surprised Harry kind of dropped out of this. He  
18 sat here that night --  
19 MR. RAAB: He was here that night when  
20 you did it?  
21 CHAIRMAN EWASUTYN: No. He was here  
22 the night when we talked about him being able to  
23 clear and grade the property. Okay. Well, this  
24 is what we agreed upon: You'll come up with  
25 something in writing for Mike's office that you

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can eventually get back to Harry. When Dina approached me today saying -- what did you say to me, that you heard from Jim Raab?

MS. HAINES: He called asking about being on the -- that Jerry had said it was going to be on --

MR. RAAB: He said it was either Board business or work session, and it was.

MR. DONNELLY: I just don't know what happened to the resolution. It may be done. If I haven't called you by noon call me tomorrow.

MR. RAAB: Thank you very much. Thank you for taking it up, John.

CHAIRMAN EWASUTYN: I mean I don't like leaving things out there. When I sense there's a lot of misinformation I like to pull it together. Harry worked hard on this.

MR. RAAB: Yes, he did. Thank you very much.

(Time noted: 9:48 p.m.)



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

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

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DATED: November 23, 2007

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

----- X  
In the Matter of

EDGE MOBILE, L.L.C.  
(2007-33)  
Orange County Department of Planning  
comments dated November 1, 2007

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:48 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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

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CHAIRMAN EWASUTYN: We just have a few items of Board business. Dina Haines.

MS. HAINES: We received the Orange County Department of Planning review comments for Edge Mobile on November 1, 2007.

CHAIRMAN EWASUTYN: We received a sign-off letter on the 14th, which you have a copy of, from Mike Musso recommending that the property is -- the project now is ready for a negative declaration. He'll discuss it with us during the public hearing.

Any comments from the Board Members before I move for a motion to declare a negative declaration and set it for the 6th of December for a public hearing?

MR. GALLI: Do you think it's going to be a big public hearing?

CHAIRMAN EWASUTYN: The other one wasn't.

MR. GALLI: I see they're stirring it up in New Windsor.

CHAIRMAN EWASUTYN: This one?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Another one.

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I'll move for a motion to declare a negative declaration for Edge Mobile, L.L.C. and set it for a public hearing for the 6th of December.

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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 9:50 p.m.)

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

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DATED: November 23, 2007

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

----- X

In the Matter of

ORCHARD HILLS  
(2003-41)  
Developers Agreement

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:50 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
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CHAIRMAN EWASUTYN: It's getting a little late in the evening but Dina, do you want to bring the next item up.

MS. HAINES: Sure. We have attached to the Board business tonight is the developers agreement for Orchard Hills that was drafted up by Mike.

CHAIRMAN EWASUTYN: The question now is have the Board Members had an opportunity to read it and are there any questions?

MR. DONNELLY: Actually Mark had sent it to the various consultants. I think you got an e-mail from me back at the end of October where we made a number of comments and proposed changes. Bryant had some, Pat had some, I had a few. My memory is that all of those were incorporated into it and then Mark's e-mail came that I sent to you asking if the Planning Board had any further comments. I think the consultant team was satisfied it addressed everything. I think that's all Mark wanted to know before they adopted it at the Town Board level.

CHAIRMAN EWASUTYN: Frank, do you have any comments on it?

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2 MR. GALLI: No.  
3 CHAIRMAN EWASUTYN: Cliff Browne?  
4 MR. BROWNE: No.  
5 CHAIRMAN EWASUTYN: Ken?  
6 MR. MENNERICH: I guess my only  
7 question is if the Town Board is willing to do a  
8 developers agreement on this one.  
9 MR. HINES: Yes.  
10 MR. DONNELLY: That seems to be the  
11 case.  
12 CHAIRMAN EWASUTYN: Ed O'Donnell?  
13 MR. O'DONNELL: Nothing.  
14 CHAIRMAN EWASUTYN: Joe Profaci?  
15 MR. PROFACI: Nothing.  
16 CHAIRMAN EWASUTYN: Mike, from what I  
17 understand, because I was reading through it and  
18 I noticed that it went from tying the recreation  
19 building in from the number of lots to months and  
20 you thought that would be an easier way of  
21 managing it, which is fine.  
22 MR. DONNELLY: Those things I think are  
23 all calls for the Town Board. If they feel that  
24 they want to, for the trade off and whatever else  
25 they're doing, collect it at a later date, that's



1  
2 fine if they don't have any pressing need to  
3 utilize them. Where I see town boards make  
4 mistakes is to delay completely the payment of  
5 fees until building permits, and I think two  
6 things happen from that. One is the developer  
7 who sells lots then manages to pass that fee  
8 along, unfortunately sometimes unknowingly, to an  
9 innocent purchaser. Number two, I think in  
10 essence when a town does that it is lending money  
11 interest free to developers. If you've decided  
12 your fee for parkland should be X number of  
13 dollars based upon today's needs and costs, if  
14 you defer it wholesale for too long without an  
15 end in sight you're basically lending money to  
16 the developer, which I don't think makes sense  
17 for the Town. It delays it from the entire lump  
18 sum when filing the plat to some now and some  
19 later corresponding to the phases. I think all  
20 those things are appropriate. If that's workable  
21 for them it's fine as far as I'm concerned.

22 CHAIRMAN EWASUTYN: I guess it's fine.

23 MR. HINES: Really the impacts don't  
24 result until the project is built.

25 MR. DONNELLY: Another way is to say

ORCHARD HILLS

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when they pay the fee they've paid the fee that's  
in effect. Then you're not lending them money,  
it's the same money.

(Time noted: 9:54 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: November 23, 2007

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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)

Field Review - Selective clearing of  
embankment between the Hudson River and building lots

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:55 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
10 Westview Drive  
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CHAIRMAN EWASUTYN: Dina, do you want to bring up the next one?

MS. HAINES: Sure. This is from Ken regarding the field review of Pinnacle subdivision and the clearing of selective trees between the Hudson River and the building lots.

MR. MENNERICH: At our site visit on Saturday we visited the site. Basically they're under a stop work order so they can't clear anything, even dead or small trees, under ten inches in diameter. There's some of that type of clearing they still want to do. We also got the sense they want to clear more than that. It was suggested to them that before they do anything like that that they should mark all the trees and have the group that's been out there before, Ed, Pat, Karen and myself, go out and see what they are proposing.

MR. O'DONNELL: That was the deal, wasn't it?

MR. HINES: Yeah. He's aware of that. I was able to speak to Mark Krysberg after you folks met with him. He wants to get back to the original approval. I think we need to be careful

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with him as to what a non-native species is because that's been stretched.

CHAIRMAN EWASUTYN: He defined that more clearly. He sent us a letter which we just got. You won't have a copy of it. Jerry received it. We got a letter from Jerry. Again, I think the most important thing is someone make contact with him and have an understanding -- I guess what is he supposed to be doing now? Read the letter.

MR. MENNERICH: On November 14th he sent a letter to John saying at this juncture we would like permission to complete removing the trees growing on the slope that are allowed to be removed according to the Planning Board regulations. After we remove those trees that are under ten inches, we'll then flag any remaining trees that we would like to remove so that they can be inspected.

MR. HINES: We need to be very careful of that term non-native species. That's been stretched to the limit and every tree has been called a Norway Maple.

MS. ARENT: I thought that the last --

1  
2 since he overcut that we agreed instead of asking  
3 him to put more trees back that he couldn't cut  
4 any more except selected trees according to where  
5 the houses were.

6 MR. HINES: His contention is that he  
7 hasn't done the work he was previously allowed to  
8 do on the northern portions of site where he was  
9 stopped. He wants to go back and do the  
10 original --

11 MR. O'DONNELL: That's where he cut  
12 most of the trees down.

13 MR. MENNERICH: He had the nerve to say  
14 that those trees were not healthy.

15 MR. HINES: That's the problem. I  
16 think we need to stick to the ten-inch rule  
17 regardless of species or health. That's  
18 something we can't go in the field after the fact  
19 and say -- you can't measure the stump of a  
20 thirty-six inch tree and say well it was an  
21 unhealthy tree or an indigenous species.

22 MR. BROWNE: One of the other things he  
23 said when we were there is he has people looking  
24 at the lots in the clearcut area but they want to  
25 see the view over there.

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MR. HINES: There's provisions to allow that to happen once the houses are sited realizing someone may put a spectacular bay window in somewhere and want that view. There's provisions in what we approve to allow that to occur with the approval of Jerry and Karen I believe.

MR. BROWNE: My impression was that he wanted to actually -- he wanted to do what he could legally do now but he's looking to cut more out to satisfy the people that want to buy.

MR. O'DONNELL: We had a conversation with him that stressed what legally he could do now. Our conversation with him was pretty straightforward, if you want to cut any more trees down you have to get the permission from us to do that.

MS. ARENT: Right.

MR. O'DONNELL: That's what we told him.

MR. HINES: His letter says he wants to go back to the old plan. It's easy to wrap a ribbon around an eight-inch diameter tree, or a whole bunch of eight-inch diameter trees.

PINNACLE SUBDIVISION

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MS. ARENT: I don't think there's a lot of that left.

MR. HINES: As you go way north on the site.

MR. BROWNE: That was the direction we left, mark the trees, get a hold of whoever and you guys can come back.

MR. O'DONNELL: We'll do that.

CHAIRMAN EWASUTYN: Who wants to get a letter off to him to set up this inspection? I'll leave that up to the four of you. How do you want to manage that?

MS. ARENT: I'll do it.

MR. O'DONNELL: Karen.

MS. ARENT: I'll e-mail everybody and find a good day and I'll call him and then send him a letter.

(Time noted: 9:58 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: November 23, 2007

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

----- X

In the Matter of

DRISCOLL SUBDIVISION  
(2005-46)  
F.E.I.S.

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 9:58 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
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CHAIRMAN EWASUTYN: Mike, what would be the motion this evening? We received the Driscoll F.E.I.S. Should we add to the record that we received that? Is that necessary?

MR. DONNELLY: You certainly could. You have a time period, I forget what it is, after it's delivered. It's always your duty to do it. Note that you received it tonight, ask your consultants to give you recommendations on it.

Ross brought another item to my attention that we might want to factor in to that discussion. I don't know if he talked to anybody else.

CHAIRMAN EWASUTYN: I think he talked to me about it. Is that the one --

MR. DONNELLY: The pedestrian --

CHAIRMAN EWASUTYN: Let me stick with this first and then we'll go with that.

I'll move for a motion to acknowledge receipt of the Driscoll F.E.I.S. and have our consultants begin to review it and to set it for an agenda item on the 3rd of January because that's what Ross was looking for.

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MR. MENNERICH: So moved.

MR. BROWNE: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you, Mike. Please bring us along.

MR. DONNELLY: I got an e-mail from him. I know he had spoken to John as well. What he said is originally there was a right-of-way at Circle Lane that fronts on the Driscoll property so that the pedestrian walk can connect public space to public space. Although the survey showed that frontage, when he did further survey work he found out that the connection is only a connection at a single point, a point with no

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2 width, therefore there's no real access across  
3 it. It appears that there's a small sliver of  
4 property between Circle Lane and the Driscoll  
5 property. It's still owned by Kroll. It was  
6 never dedicated to the Town. He wants to know  
7 what we think he should do about it. I would  
8 think one suggestion is to see whether he can  
9 acquire the property, otherwise I think -- the  
10 reason why I raise it at the same time as the  
11 F.E.I.S. is one of the conclusions and benefits  
12 of the project was that pedestrian access way.  
13 that will really not work except through  
14 trespass, and that might well happen if you bring  
15 the two that close together. I don't know that's  
16 the right solution. Maybe we should suggest he  
17 contact Kroll.

18 MR. HINES: He should investigate  
19 ownership. There may be no one paying taxes on  
20 it.

21 CHAIRMAN EWASUTYN: Okay. At what  
22 point do we finalize that in the F.E.I.S., or do  
23 we do that in the Findings Statement?

24 MR. DONNELLY: I think it's got to be  
25 resolved. Either we're going to do without the

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pedestrian access way or he's found a way to  
acquire the interest. I'll send him an e-mail to  
say we think you should investigate acquiring an  
easement for public access for a fee ownership,  
and if you can't you're going to have to amend  
your F.E.I.S. and the Board is going to have to  
take that up as a policy matter.

(Time noted: 10:03 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: November 23, 2007

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

----- X  
In the Matter of

LANDS OF WEBER

Sign-off letter from Orange County Planning Department

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 10:03 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
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CHAIRMAN EWASUTYN: There's one other item, Dina.

MS. HAINES: We received a sign-off for the lands of Weber from the Orange County Planning Department on November 6th. We want to set up an action to declare a negative declaration and set a public hearing for January 17, 2008.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. BROWNE: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Cliff Browne. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So



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carried.

(Time noted: 10:04 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: November 23, 2007

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

----- X

In the Matter of

DRURY HEIGHTS  
(1994-41)  
Stipulation of Settlement

----- X

BOARD BUSINESS

Date: November 15, 2007  
Time: 10:05 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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MR. DONNELLY: One other matter. Do you remember at the last meeting we talked about the Drury Heights stipulation of settlement in so far as it affected the Planning Board it had a tight timetable for submission for your review and an even tighter timetable for the consultants? I think we talked that through and we were satisfied with it.

There have been some additional changes since but they were simply things that involved the Town Board and the developer. Mark called me late this afternoon to say last night the Town Board voted to authorize entry into that stipulation. The Planning Board was named in the lawsuit. I'm not the attorney representing you but I have been in touch with him. The stipulation requires we also sign off.

I would suggest, given our discussion at the last meeting, that you vote to authorize the Chairman to sign the stipulation so it can be filed with the court.

MR. GALLI: John, I have a question on that. That's Exiter? The other group, I see correspondence --

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MR. HINES: It's Drury Heights.

MR. DONNELLY: This is Drury Heights.

MR. GALLI: We have other information on Lane DeMuro.

MR. HINES: That is the one you're talking about. It's called Star Light Development.

MR. GALLI: He's the guy that sued and won.

MR. DONNELLY: Actually they sued and the lawsuit has never been answered but they settled. Exiter sued and won.

MR. GALLI: They're both coming forward together now?

MR. DONNELLY: Apparently they have had some discussions about the resolution. I'm told that the Town has now given Exiter notice that they intend to rezone the property yet again and Exiter is now going to try to race the Town to see if they can get their other agency approvals before the Town can rezone. It's the kind of scenario that's not comfortable for you because you have to follow business as usual without either delaying or expediting it and they're

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2 working toward that. We had a meeting to go over  
3 some of the outstanding issues the other day.  
4 MR. GALLI: Every time I see that  
5 project it's confusing who's got the right and  
6 who doesn't have the right.  
7 MR. DONNELLY: They both benefited from  
8 the court's decision because the court's decision  
9 struck the ordinance amendment but Drury Heights  
10 decided that they would resolve it by agreeing to  
11 a reduced number of lots. Exiter has not seen  
12 fit to work out a similar agreement, or perhaps  
13 the Town hasn't offered as sweet a deal. I don't  
14 know.  
15 MR. O'DONNELL: Can I just ask a  
16 question? I'm a very simple guy. Drury Heights,  
17 we got sued, we were part of the lawsuit?  
18 MR. DONNELLY: Yes.  
19 MR. O'DONNELL: Did we win or lose?  
20 MR. GALLI: Lost.  
21 MR. DONNELLY: Drury Heights has never  
22 answered.  
23 MR. HINES: They settled.  
24 MR. DONNELLY: What happened is they  
25 started their lawsuit and they immediately began

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2 discussing settlement with the Town Board. The  
3 lawyers that were hired through the insurance  
4 company to defend us have never put an answer in.  
5 The lawsuit is in limbo. Now it's going to be  
6 settled.

7 MR. O'DONNELL: What about Exiter?

8 MR. DONNELLY: Exiter went the distance  
9 and they won as against the Town on the argument  
10 the law was enacted improperly. They lost  
11 against us on the claim by approving the lot line  
12 change we had in fact actually approved a  
13 subdivision which then exempted them from the  
14 legal challenge. That they are appealing. The  
15 Town is appealing --

16 MR. HINES: The Town is appealing.

17 MR. DONNELLY: -- the issue they lost  
18 on.

19 MR. O'DONNELL: So your batting record  
20 is one win, no losses and a tie.

21 MR. DONNELLY: The tie wasn't me but  
22 I'll take credit for it. The insurance company  
23 defended that one.

24 MR. O'DONNELL: I always like to  
25 understand how we make out seeing how you're the

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guy.

MR. DONNELLY: The Market Place is starting -- I think they filed yet another lawsuit yesterday or the day before. I should be getting the papers shortly.

MR. GALLI: Market Place or Mid-Valley Mall?

MR. DONNELLY: Mid-Valley Mall, Newburgh Mall or whatever they're called.

MS. HAINES: Does that mean they're going to ask me for another FOIL?

MR. DONNELLY: That was to prepare this lawsuit.

MR. MENNERICH: I'll move that John can sign the stipulation.

MR. O'DONNELL: Me, too.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. 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. BROWNE: Aye.

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MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

I'll move for a motion to close the Planning Board meeting of the 15th of November.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes.

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



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

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

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DATED: November 23, 2007

