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

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In the Matter of

HUGGINS II  
(2014-23)

7 Todd Lane & 35 Cocoa Lane  
Section 34; Block 2; Lots 24 & 90  
R-2 Zone

----- X

PUBLIC HEARING  
TWO-LOT SUBDIVISION & LOT LINE CHANGE

Date: December 4, 2014  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD  
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

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

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HUGGINS II

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MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of December 4, 2014.

At this time I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. PROFACI: The Planning Board employs various consultants to advise the Board on matters of importance, including the State Environmental Quality Review Act, otherwise known as SEQRA, issues.

I ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Code

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Compliance Supervisor.

MR. EDSALL: Mark Edsall, McGoey,  
Hauser & Edsall Engineers.

MR. MUSSO: Mike Musso with HDR.

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

MR. WARD: Please stand to say the  
Pledge.

(Pledge of Allegiance.)

MR. WARD: Please turn off your phones  
or on vibrate.

MR. PROFACI: The first item on  
tonight's agenda is Huggins II, project 2014-23,  
located at 7 Todd Lane and 35 Cocoa Lane,  
Section 34, Block 2, Lots 24 and 90. It's in the  
R-2 Zone. This is a public hearing for a  
subdivision and lot line change.

At this time I'll ask Michael Donnelly,  
the Planning Board Attorney, to explain the  
purpose of a public hearing.

MR. DONNELLY: Before a planning board  
grants subdivision approval, and this is a  
subdivision application, it's required to hold a  
public hearing. The purpose of the hearing is to

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allow the members of the public to come forward, speak to the Board and bring to the Board's attention issues or concerns that the Board may not be aware of or that have not been reported upon by the Town's consultants. After the applicant gives his presentation, the Planning Board Chairman will ask those of you who wish to speak to raise your hands. Each of you will be identified in turn. We'd ask you to step forward, if you would, identify yourself. If you would, please spell your name so our Stenographer gets it down correctly, and tell us where you live in relation to the project so we have an idea of the perspective that you bring to bear. Direct your comments please to the Planning Board. If you have a question and it can be answered easily by either the applicant's engineer or a member of the Town's team, the Chairman will direct that question to the appropriate person.

MR. PROFACI: Thank you, Mike.

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

MR. MENNERICH: "Notice of hearing,

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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 Huggins II subdivision, project 2014-22, for a two-lot subdivision and lot line change. The Huggins II subdivision is a proposed two-lot single family residential subdivision with a lot line change located on the northerly end of Todd Lane and the southerly side of Cocoa Lane. The site is 12.1 acres plus or minus. The site consists of two parcels and is located in the R-2 Zone. The premises is located on 7 Todd Lane and 35 Cocoa Lane, designated on Town tax map as Section 34, Block 2, Lots 24 and 90. Said hearing will be held on the 4th day of December 2014 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 November 10, 2014."

MR. PROFACI: Thank you, Ken.

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At this time I'll turn this over to the project engineer, Charles Brown.

MR. BROWN: Thank you. As the notice stated, this involves two lots, one owned by Mr. Huggins which is accessed off of Todd Lane, and that lot is presently 10.4 acres. The other lot owned by the Ciaccis is off of Cocoa Lane, and it presently is 1.7 acres.

The proposal is to swap some property, .9 acres from Huggins to Ciacci and .04 acres from Ciacci to Huggins, to provide access to Cocoa Lane.

In addition to that, we are proposing one additional single-family residential lot. The acreage of the lot, the Huggins lot will be 7 acres, the Smith lot, which is Mr. Huggins' sister, that's the purpose of this project, will be 2.5 acres, and the Ciacci lot will be 2.58 acres. The new building lot will be for a single-family home and it will be serviced by a well and septic, and it will be accessed off of Cocoa Lane. The project is in an R-2 Zone and all lots meet the zoning requirements.

CHAIRMAN EWASUTYN: Thank you, Charlie.

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As Mike Donnelly, the Planning Board Attorney, said at the beginning of this presentation, anyone here this evening that has any questions or comments, please raise your hand, give your name and your address. What we'd like to do is give everyone an opportunity to speak first and then if there's a need for a second round, we'll do that. Let's have everyone have a chance to speak.

The gentleman in the back.

MR. ROMERO: My name is Enrique Romero, R-O-M-E-R-O, and I live on 11 Todd Lane.

Mr. Mennerich, you mentioned project 2014-22. I have a dash 23 on my paper.

MR. MENNERICH: It's 23.

MR. ROMERO: Okay. Our concern on Todd Lane, and most of us that live here are concerned of the traffic that may evolve from the expansion of Mr. Huggins' property, that traffic from Cocoa Lane will start coming down Todd Lane. Is that something that you considered may happen?

CHAIRMAN EWASUTYN: Mark Edsall, the impact for the lot onto Todd Lane?

MR. EDSALL: My understanding is that

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the proposed single-family residence would access  
Cocoa.

MR. BROWN: That's correct.

MR. EDSALL: So if there is any  
increase in traffic for this specific  
application, it would appear to be the additional  
traffic related with the single-family residence  
impacting Cocoa.

MR. ROMERO: Okay. It mentioned also  
about the duplex. Possibly in the near future  
they may put a duplex. Will that be accessed  
from Cocoa Lane or from Todd Lane?

CHAIRMAN EWASUTYN: Charlie, would you  
like to answer that?

MR. BROWN: Sure. There's no proposed  
duplex at this time. The way the policy is in  
this Town, to get a permit for a duplex you have  
to go through an independent site plan approval  
before this Board. In addition to that, you have  
to go through architectural review. So if that  
were to happen in the future, you would be  
noticed again and there would be a whole other  
process. At the completion of this project,  
believe it or not, all three lots will qualify



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for duplexes based upon Town of Newburgh zoning. But again, there's no duplexes approved -- proposed, and any approval would require an additional trip before this Board.

MR. ROMERO: The other question I had was in this conversation on the paper that I have was talking about whether Mr. Huggins' property is 500 feet or less from North Plank Road. What bearing does that have that involves the County?

CHAIRMAN EWASUTYN: Under 239-M of the Municipal Law, which we would then have to refer -- if it were within that 500 feet boundary, we have the responsibility to refer it to the Orange County Planning Department for what we call a coordinated review. They have thirty days to look at it and respond.

MR. ROMERO: Respond to the expansion of the property or --

CHAIRMAN EWASUTYN: To the application in general. Correct. Just speaking in general, in most common cases they would leave it up for a Local determination.

MR. ROMERO: Okay. Thank you, gentlemen.

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CHAIRMAN EWASUTYN: You're welcome.  
This gentleman.

MR. DeMARCO: My name is Steve DeMarco,  
D-E-M-A-R-C-O. I live at 51 Cocoa Lane. My  
property is adjacent to lot 1 and lot 2.

First of all, we just received this  
information. Probably the letter went out  
November 10th. I probably received it on the  
12th in terms of there's going to be a meeting  
regarding this piece of property with no details.  
We've asked the lot owner of -- I guess it's Ms.  
Ciacci, her husband, he gave us the information.  
Not all of it was totally correct. We had lots  
of concerns. Unfortunately not everybody that  
lives on our road could make it this evening,  
some of them work in the city, one is sick. But  
we did have some discussions and we did meet Lynn  
and her husband.

MR. BROWN: That's her brother.

MR. DeMARCO: Well we met the husband.  
Right, Lynn?

My purpose here today is -- you are  
aware that Cocoa Lane is private; correct?

CHAIRMAN EWASUTYN: Correct.

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MR. DeMARCO: All of you. Has anybody actually driven down Cocoa Lane besides Mr. Galli?

CHAIRMAN EWASUTYN: I've driven it.

MR. DeMARCO: All right. And the property that we're referring to is -- here's Cocoa Lane. I'm looking at the twenty-five to fifty feet. It seems like there was a discrepancy. Has that been cleared? There was an easement, twenty-five foot. I have FOILED the information. You had a discussion and I know Mr. Galli was questioning, I don't know if it was Mr. Hines. I would like to have that clarified if you don't mind.

CHAIRMAN EWASUTYN: Charlie.

MR. DeMARCO: Just a second here. Mr. Galli asked it's not going to be subdivided further? Not at this time. Are you referring to the extra twenty-five foot? That would permit him to do that in the future. However, after discussing it with Lynn Smith, my client, his sister, today, they're going to forego that. So he will not have twenty-five feet -- he will not have fee access to Cocoa Lane from his lot. They

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asked me today to make that change to the map.  
Mr. Galli says the twenty-five foot access is  
going to be -- Mr. Hines says it's going to be  
fifty feet.

Who is Mr. Hines? Is he here?

MR. BROWN: That's Pat Hines, the  
engineer.

MR. DeMARCO: All right. And then Mr.  
Brown says let's do this and make it fifty foot.

MR. BROWN: Okay. Our first submission  
we also had a twenty-five foot strip running  
along the common property line with your lot to  
Mr. Huggins' lot in the back. We have since  
removed that. Mr. Huggins' lot, on completion of  
this project, will have no access to Cocoa Lane.  
The only access will be for Lynn Smith's lot.

MR. DeMARCO: Okay. That answers one  
question. All right.

I have a letter that was sent to you,  
the Planning Board. I hope you received it. I  
think you also had some e-mails and some letters  
that were sent from Florida from residents on  
Cocoa Lane. Did you receive that this week?

CHAIRMAN EWASUTYN: We received one

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e-mail, which was forwarded on to the Planning Board Members, and one letter signed by yourself and Mr. and Mrs. Shapiro. We have not received any letters from Florida.

MR. DeMARCO: Okay. Well, from my experience the mail from Florida to New York is snail mail. "Dear Planning Board Members, we were recently informed of a subdivision" -- I'm reading this so that it's going into the minutes. "We were recently informed of a subdivision application and lot line change for the lands of Arthur Huggins, tax map Section 34, Block 2, Lot 24, 7 Todd Lane, Newburgh, New York, and the lands of Jessica Ciacci, tax map Section 34, Block 2, Lot 90. We are homeowners with our homes located on Cocoa Lane. Steven DeMarco owns lots 2 and 3 of the subdivision map entitled subdivision planned lands of Sound Associates which are each 5 acres and owns approximately six hundred feet of one-half of the roadway known as Cocoa Lane fronting on his two lots. His property is directly adjacent to the lands of Huggins and Ciacci. Angela and Eric Shapiro own approximately 1 1/3 acre parcel which owns

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approximately a hundred and fifty feet of roadway frontage or one-half of the roadway in front of their residence known as 25 Cocoa Lane. In 1986 Sound Associates created a subdivision of 35 acre -- 35 acre parcel of property containing seven 5-acre lots with a private road known as Cocoa Lane. Each of the subdivision owned a portion of Cocoa Lane. At the time Cocoa Lane subdivision was completed there was a 5-acre lot which was designated as lot 7 on the Sound Associates subdivision map. This lot 7 was subsequently resubdivided into three building lots, one of which is now owned by Jessica Ciacci, tax map Section 34, Block 2, Lot 90. All of the lot -- all of the lot owners on the original Sound Associates subdivision map and the subdivided portions thereof have the rights in common with each other for ingress and egress over the private road with the fee ownership to the portions of the road in front of each of their respective parcels. The adjoining property now owned by Huggins is Town of Newburgh tax map Section 34, Block 2, Lot 24. This property does not have any frontage on Cocoa Lane or any rights

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of ingress and egress over Cocoa Lane. It is our understanding that there is presently a subdivision and a lot line change application by Huggins and Ciacci to transfer a small portion of the Ciacci lot to give Huggins' parcel frontage on Cocoa Lane. The inherent flaw with the proposed subdivision application is that only the small sliver of the Ciacci lot line change parcel would have rights to use Cocoa Lane. The proposed subdivision would create a new lot which would have as it's only means of ingress and egress as Cocoa Lane, a private road over our property and other properties, none of which have granted easement rights to the Huggins' property. In addition, the second Huggins' lot, which already has frontage on Todd Lane and uses the same for ingress and egress, included a second access which would allow a future use of Cocoa Lane by this property and perhaps the creation of additional lots utilizing Cocoa Lane without ingress and egress rights." However, I think you said that was changed. "The Planning Board, if it approves this subdivision application, would unlawfully be approving easement rights over our

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property to parcels which we have not agreed to. The lots being created on the Huggins' property would utilize Cocoa Lane and have to travel on our property to reach Weyants Lane which is the closest Town road. We do not believe the Planning Board has the legal right to grant subdivision approval creating lots which are technically landlocked without easement rights over our property. The representation that the small lot change giving the two new lots frontage on Cocoa Lane would open Cocoa Lane to the entire Huggins' parcel is incorrect and legally unsustainable. We are hereby placing the Planning Board on notice that they do not have the legal authority to create a landlocked subdivision and/or alter our property rights by the approval of this subdivision application. In addition, even if the Planning Board should choose to ignore this unlawful creation of easement rights over our respective properties, the new lots would add additional traffic and usage on a private road without all the Cocoa Lane lot owners' consent. We do not see how the subdivision application can be in any way



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approved, altering our property rights without our consent and the consent of each and every property owner on Cocoa Lane."

With that said, I have some concerns from some of the residents, and questions. We don't -- we believe you can't extend the property to a third party, you can't grant rights to new parcels. The price of our road was reflected in the price of our property, which I pay dearly, and I have two lots, and it's not fair to just win access to it. No one owner should make deals that affect the other thirteen landowners. That's why we have an association. We feel Cocoa Lane is our road and the Planning Board doesn't have the authority to grant the other lands to it. We aren't here to make it convenient for a developer to easily subdivide a large tract of land.

The Planning Board has many functions. The first and foremost is to keep the taxpayers and the property owners' concerns at the top of their list. We would like you to deny this request tonight, and then we, as an association, can talk to the Huggins' family and come to a

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friendly solution the correct way. They could reapply at a later date. Thank you.

CHAIRMAN EWASUTYN: Thank you.

Charlie, would you like to respond to that at all?

MR. BROWN: Again, I'm not a lawyer but I did read the Cocoa Lane maintenance agreement. It's a right-of-way, not an easement. In addition to that, I did e-mail over a copy of that --

UNIDENTIFIED SPEAKER: Excuse me.

CHAIRMAN EWASUTYN: Ma'am, ma'am, ma'am. Please, let him speak.

UNIDENTIFIED SPEAKER: I'm sorry.

MR. BROWN: -- to you and Mike and Pat Hines with a signed amendment to that agreement that Lynn Smith signed. So again, I'm not a lawyer. As far as my understanding is, a private road is -- this one is a right-of-way. It's a road so anybody that has access to it can use it. My client is willing to contribute to the maintenance of the road. She has signed on to that. Again, I'm not a lawyer.

CHAIRMAN EWASUTYN: Mike Donnelly,

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Planning Board Attorney?

MR. DONNELLY: Charlie, what I received from you, I don't know if it got lost in the e-mail, was only the acknowledgement to be bound by the private roadway easement and maintenance agreement. I have not seen a copy of the private roadway easement and maintenance agreement, and it's terms really will answer the question here. There are private issues --

MR. BROWN: It did seem -- do you have a copy of that, Lynn?

MR. DONNELLY: I'm not going to have a chance to review it here tonight but it would be helpful if I had it.

For the benefit of the public, there were both private issues here, including the issue of overburdening of an easement, and that is putting more lots on it than were originally intended, and the more straightforward issue of whether or not there's a legal right to use the private road. I don't know what the terms of that are, whether it referenced tax maps. For instance, if it just said any land adjoining and the owner of the up front lot were to have

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purchased the rear lot and consolidated them, depending upon how the easement agreement was written, that may afford that appendage the same right to use the road as the front lot. If instead what was listed were independent or individual tax map lots, then the agreement clearly would allow only the identified tax map lots to have access to the road. I need to look at it and see. It's an issue that needs to be resolved. However, there may be a private issue called overburdening of the easement that would apply here even if the Planning Board were to grant the approval. If in the context of the original layout it didn't envision this number of lots, that's another issue. And finally, even if this is approved by the Planning Board, we would require the new lot owners to participate in the cost sharing for the maintenance of the private roadway. I'm not prejudging any of those, I'm just trying to give you a feeling of what's on the table and that needs to be examined.

CHAIRMAN EWASUTYN: Thank you.

Ma'am, give your name and address please.

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MS. VanVOORHIS: Nellie Ann VanVoorhis,  
13 Todd Lane.

Can I come up by the map? This is my  
husband and my property. There's a right-of-way  
that goes through here. First of all, they've  
got Todd Lane on Huggins' driveway. Huggins'  
driveway is not Todd Lane.

When my grandfather bought this  
property back in the 19 -- I had the map home,  
went to Goshen and everything else, and he bought  
it I believe from Dewitt. My father -- our  
grandfather bought all this property. Dewitt  
gave my grandfather a twenty-five foot  
right-of-way to go up to the end of the property,  
which actually this isn't right. This is our  
property. This piece of property right here is  
Mr. Romero's. In the front here his lawn comes  
to a point. Todd Lane comes in from North Plank  
Road, comes up and there's a point there. Well,  
it would be here. And if you went straight, that  
was a driveway that was my uncle's. Todd Lane  
goes actually this way and it comes up on the  
other side of our property, the property here and  
property here. And then we have the other

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neighbors here. We have Bill, Lynn, and Pedro is down -- Pedro is down here. Anyway, all these people here. It was all my brother's property -- my grandfather's property. It was split between us. This is now my nephew's property here, which adjoins Cocoa Lane. Todd Lane does not go up there. On the side of Hengst, that was a driveway for my uncle's house. The man that lived back here, he had his driveway and it went down and it just joined in there. We're talking way back. This is how it is out in Goshen. Everybody's property that was on the maps out in Goshen that when you go into Todd Lane they own the road to the middle of the stonewall. So we're concerned that -- again, we have a private driveway. We maintain it. We don't want X amount of traffic coming through here. When that actually -- right here was just an old -- I don't want to say it -- old dirt road.

CHAIRMAN EWASUTYN: Charlie, who did the survey on the property?

MR. BROWN: Howard Weeden did.

MS. VANVOORHIS: I've got surveys --

CHAIRMAN EWASUTYN: Ma'am, let him

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respond.

MR. BROWN: Howard Weeden did the survey on this. Huggins' lot does have access to Todd Lane, legal access. It's kind of a mute point because this application here would have no affect on Todd Lane whatsoever.

MS. VANVOORHIS: I just want to make sure.

Another thing, they didn't even have a Todd Lane address. When Lornan Zellers lived there, her address was North Plank Road.

So what I'm saying is back when my grandfather bought this property and they gave him the right-of-way, and then when 911 come in and they put the right-of-way and they made Todd Lane come up and come around all our property.

CHAIRMAN EWASUTYN: One more time, Charlie.

MS. VanVOORHIS: We don't maintain Huggins Lane.

MR. BROWN: This application, there will be no affect whatsoever on Todd Lane. Whatever has been will continue. There's no additional houses proposed, no additional

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HUGGINS II

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traffic. The proposed new lot will be accessed off of Cocoa Lane.

MS. VanVOORHIS: So we have nothing to worry about them coming through?

MR. BROWN: Nope.

MS. VanVOORHIS: That's all I wanted to check.

CHAIRMAN EWASUTYN: Sir.

MR. LOPEZ: Hi. I'm Joshua Lopez, L-O-P-E-Z. My wife and I own 26 Cocoa Lane and 6 Cocoa Lane.

The whole purpose of us moving on to a private road was for our kids. You know, we didn't want any kind of new traffic or anything. I don't have all the legal terms like everybody else does but all I know is that that property touches Todd Lane and touches Cocoa Lane. Who is to say later on that they don't -- I mean fifty foot is a lot. What's to say later on you don't connect the road and make it Huggins Lane? I mean I live on a private road and I'm all for someone chipping it. We pay for everything from potholes to plowing. Everything. We do all the maintenance. I just want a reinsurance that hey,



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if you're going to be on Cocoa Lane, it's just Cocoa Lane and nothing is going to happen later on. It seems like everything else is being subdivided here. I mean what's to say something else later on down the road -- I mean it's a great way to go from North Plank Road all the way to Weyants. Right now there's nothing there.

CHAIRMAN EWASUTYN: Charlie, do you want to speak on future proposals?

MR. BROWN: Yeah. There's no proposal to connect Cocoa Lane to Todd Lane. In addition to that, it's physically impossible to do that because Todd Lane, where the right-of-way hits the Huggins' property, is only twenty-six foot wide. To connect roads you need at least fifty foot all the way through. It's not going to happen. It will never happen.

MR. LOPEZ: I just want a guarantee. I mean I'm all for someone chipping in on the road. It's expensive to maintain the road. But I just feel like --

CHAIRMAN EWASUTYN: Mike Donnelly, Planning Board Attorney, guarantees?

MR. DONNELLY: Planning boards don't

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issue guarantees like that. You heard a representation from the developer's engineer. On that issue I don't think you're going to get more than that.

MR. LOPEZ: His address will be 26 or whatever Cocoa Lane and will always be?

MR. BROWN: Correct.

MR. LOPEZ: It's not like it's going to be subdivided and this house is going to be over here or there? Anything that comes off of that property is going to be a Cocoa Lane address?

MR. BROWN: Correct.

MR. DONNELLY: I don't know if that's the same question you asked before. Charlie Brown answered your question regarding a connection to Todd Lane. That doesn't foreclose, and I'm not saying it's going to happen, the possibility that the Huggins' lot, if I'm using the right designation, could not be further subdivided in the future. Whether or not the private roadway easement and maintenance agreement allows that or whether or not that overburdens the easement are other issues. It is technically possible, given this layout, for

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there to be further subdivision.

MR. LOPEZ: And that's my concern then. That means their driveway -- fifty feet is enough for another road. It could be Huggins Lane private road and then subdivided in there and have another private road off of Cocoa Lane. I feel it's unfair that -- yes, it's Rob's property -- I mean and Ciacci, whatever. It's Norman. When I moved there it was Rob Norman's property. I understand it's Huggins' property. But you're trading off properties, you never concerned us on Cocoa Lane. Once you gain access off Cocoa Lane, I feel everybody on Cocoa Lane had a right to know about it. I mean I'm here in my sweatpants because I didn't know about anything.

MR. DONNELLY: I mean it was noticed on the property, there were mailed notices and there was a legal hearing notice.

MR. LOPEZ: I mean I just feel it's unfair that you did not concern everybody on Cocoa Lane.

MR. DONNELLY: Well everyone within the radius was notified. I don't know how long Cocoa Lane is.

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MR. LOPEZ: I just feel that -- I know that not everybody is even here from Cocoa Lane and that -- yeah, no one could be here. It's unfair that once you've incorporated Cocoa Lane as your access to gain to your property, then everybody -- now it's everybody's business. You know, before it was just Ciacci and Huggins and they're swapping property and that was it. I mean we found out because of a landscaper that was freaking cutting the grass on Eric's lawn and he was just like oh yeah, we're building a road over there next month. I mean it just doesn't seem right. I don't think we've had enough time to really think about it. We're not saying no. We would just like to be concerned and be involved in everything.

CHAIRMAN EWASUTYN: Questions or comments from those who haven't spoken yet?

MS. MEYER: I'm Nicole Meyer, I'm his wife. I think -- we met once we found out about this proposal as a homeowners association, and typically we meet monthly. The homeowners get together and we sort out dues and maintenance and that type of thing. We found out about this what

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we feel fairly last minute. We did see the postings from the Planning Board on the road. We have felt that we have not had enough time to find out our rights legally and to fully --

MR. LOPEZ: Absorb it.

MS. MEYER: -- understand what legal we can do. We are concerned because we feel that this was a fairly quick proposal and fairly quick decision.

As a homeowners association, when we met privately we all agreed, aside from one homeowner, that we were not comfortable with the proposal and we felt that we needed more time to decide. So I would like to just ask the Planning Board to please give us more time with this so that we can further investigate what legally we are and are not allowed to do, and also to look at the homeowners association dues and possibilities of the future if this easement is granted. Because nothing seems to be guaranteed, we do have concerns because our homes and our investments are on this property. So I would just like to ask on behalf of the homeowners association that we be given some more time.

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Thank you.

CHAIRMAN EWASUTYN: Additional questions or comments from the public? The gentleman there.

MR. DOERRE: Hi. My name is John Doerre, 34 Cocoa.

I'd just like to put on the record that I don't believe for one second that there's not plans in place for the rest of that property. Somebody is already planning it. If you put a couple of duplexes back there plus the single-family home, which none of us were objecting to a single-family home. There's thirteen houses on Cocoa Lane. You get five more families set back in that tract, that's a forty percent increase in traffic on our road, and we don't seem to have any rights toward that. So I'm going to investigate, since I own half the road and a good amount of frontage, how I keep people off that road until somebody here makes a decision that's benefiting the property owners of Cocoa Lane.

This whole thing has been done -- as Josh has said, you're not supposed to find this out from your landscaper. You're supposed to

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find it out in a public forum. There's consideration here. There's people who are gaining almost an acre of property. There's people here who are gaining rights to our road.

We had a meeting. At the meeting we said there's no problem, we would love to have you as neighbors. The Huggins appear to be very, very nice people. Could you just make sure that there's one access to Cocoa Lane for your house. That's all we asked for. We left the meeting, we think that could be done. It's not being done. What's happening is exactly what we thought, there's one driveway going to Huggins and then there's another twenty-five foot easement that can go back into those pieces of property, and no one is -- okay, you can't guarantee it. I understand that. But the possibility is we're going to have a huge increase in traffic onto private property. We own that road. We paid for that road. We pay for the road. We have some rights, too.

As Nicole said, Josh said, Steve said, we need some more time to take a look at it.

That's it. Thank you.

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CHAIRMAN EWASUTYN: Charlie, do you want to respond to that?

MR. BROWN: Yes. On completion of this application, assuming that it's approved, only lot 2, which is this lot, only that lot will have access to Cocoa Lane. This lot will not have access to Cocoa Lane. That seems to be the biggest concern here. That was resolved at the last Planning Board meeting. It's not before the Board right now. Just the Huggins' lot, lot 2, has access to Cocoa Lane, and that's a proposed single-family house.

MR. DOERRE: I have another question. If we've already determined that they can't exit from Todd Lane to North Plank Road, and you've already mentioned duplexes have the possibility to go in, are those people going to live on that property and not exit, or, if they're living there, how are they getting off that property?

MR. BROWN: I don't really understand the question.

MR. DOERRE: It's a simple question.

CHAIRMAN EWASUTYN: Please, please, please. We're having a meeting. It's not



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laughing. Let him respond to the question.

MR. BROWN: You all have 5-acre lots is what I've been told tonight. Every one of you could put a duplex on your lot.

MR. DOERRE: That's not true. Not by our agreement.

MR. BROWN: According to the Town Code. That's the only statement I made. There are no proposed duplexes here. The lots are large enough to qualify for that. I just -- maybe I should have never made that statement but I'm a professional engineer and I lay out the facts. There's no proposed duplex at this time.

MR. DOERRE: Then I have another question. Based on your professional experience as a planner, if there were lots or houses developed on those pieces of property, where would the egress be for those pieces of property?

MR. BROWN: The egress for proposed lot 2 is off of Cocoa Lane.

MR. DOERRE: That's not the question.

MR. BROWN: That house is already under design. It's a single-family house.

Three bedroom, Lynn?

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CHAIRMAN EWASUTYN: John, John, John.  
You asked a question and he's answering the  
question.

MR. DOERRE: That wasn't the question.

CHAIRMAN EWASUTYN: Then you have to  
reclarify. What's your question, John?

MR. DOERRE: The question is if there's  
houses built on the adjacent lot, where will the  
egress for those houses be?

MR. BROWN: That would be a whole other  
application before the Planning Board. I can't  
answer that. There's no proposal for that.

MR. DOERRE: It can't be Todd.

MR. LOPEZ: It has to be Cocoa Lane or  
Todd Lane.

MR. BROWN: There's no proposal other  
than this before the Board.

CHAIRMAN EWASUTYN: Steve, I know you  
have a question.

Is there anyone else who hasn't spoken  
that would like to speak this evening?

(No response.)

CHAIRMAN EWASUTYN: Okay. We'll take  
the last round of questions again. Steve.

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MR. DeMARCO: You just made the -- you used the word there's a house that's already being planned. You already have the number of bedrooms in this house. How does this happen? How do you -- you didn't even -- it hasn't even gone before the public and already you have this as sold, it's a done deal? You're just waiting for us to what? Waste our time?

MR. GALLI: They can spend their money any way they want, Steve, whether we approve it or not. If we don't approve it they've wasted their money. It's not our objective to tell them how they have to go about planning their --

CHAIRMAN EWASUTYN: Another thing, too. In order to approve a subdivision, one of the things that you have to have is a septic design for that lot. That septic design is based upon the number of bedrooms. So it all sort of goes hand in hand as part of the subdivision approval process.

MR. DeMARCO: I'll go back to one of the comments I made originally. I really do believe, and most of us do except for one homeowner that gains almost an acre of land, that

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this is really our decision. It's our road, it should have come to us. We should decide.

CHAIRMAN EWASUTYN: Mike, do you want to respond to that one more time?

MR. DeMARCO: I think he did already.

MR. DONNELLY: I'll try to repeat it again. Those are two separate issues. The terms of your private roadway easement and maintenance agreement are issues that are very real, and you may or may not, I haven't read it yet, have a right, and you may have a legal right to prevent this from happening. The Planning Board is told by the courts to ignore the existence of private agreements because private parties should resolve their differences over their agreements. By the same token, we do have to be sure that the applicant -- that the lots the applicant proposed have the right to access that roadway. The terms of the right may be limited privately, but that's not an issue for the Planning Board. So I will need to review the document because I have not -- it's my advice to the Planning Board that we not take action on the project this evening so I have a chance to look at that. But if it demonstrates

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to me that they have access to Cocoa Lane and the right to use it, apart from any other limitations, then I will recommend to the Planning Board that that is not a bar to approving the subdivision. But I have to have a chance to see it. If I give that advice, it doesn't mean that you might not have certain other rights of a private nature under that agreement. But that's not the Planning Board's concern.

MR. DeMARCO: And I think you were right about it can be solved privately. If we solved it privately we'll take care of this our own way and the correct way.

MR. DONNELLY: You've always had that right. I'm sorry you didn't get more --

MR. DeMARCO: Well you say you have that right. You're only giving us three weeks to prepare. We didn't have specific information. That information that was given to us only said you have a public meeting. We didn't know what the maps were. If people don't know what FOIL means, they didn't know that they could go in and FOIL the information and study it a little bit.

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I think this whole process was flawed. I know that's probably the procedure for the Town of Newburgh, but maybe you ought to think about it because you're affecting fourteen property lot owners and we paid for that. We pay every -- we have a \$10,000 stretch of Cocoa Lane and we don't have the money to pave it. It doesn't need potholes any more, it needs to be totally repaved, and we don't have the money for it, let alone bringing in more homes, whether it's one or three or four, or townhouses or duplexes. We can't afford to do that. Plus all the other traffic that that's going to cause. So I think that's our decision, the homeowners association, whether we want to add on another lot. Once again, I don't think anybody really argues the fact that we put on one lot. That should be our decision. I don't think it's the Planning Board's decision. Thank you.

CHAIRMAN EWASUTYN: Any final questions or comments from the public?

Okay, sir.

MR. VanVOORHIS: Where --

CHAIRMAN EWASUTYN: Can you give your

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name?

MR. VanVOORHIS: I'm sorry. Bob  
VanVoorhis, 13 Todd Lane.

Where his -- as you face the property,  
the left-hand side, that's all wetlands in there.  
How can anybody even consider putting a house  
down there? My wife used to ice skate there.  
Does anybody look at that?

CHAIRMAN EWASUTYN: Charlie?

MR. BROWN: We did. There's no  
wetlands on this property. There is some other  
wetlands in other areas off Cocoa Lane. Not only  
that, but we did a septic testing and we got very  
good soils. This is an in-ground septic. Again,  
there's no wetlands on the properties involved in  
this application.

MR. VanVOORHIS: There's supposed to  
be.

MR. BROWN: I'm sorry?

MR. VanVOORHIS: That place was for  
sale about fifteen years ago and they couldn't  
sell it because it was all wetlands. Now all of  
a sudden you're telling me it's not a wetland? It  
makes no sense. You're supposed to be able to

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build two houses there up on top of the hill.  
Nothing down below. That's where the septic is  
going to go. It's like them saying they think  
they have the right to bring off that road where  
these people live. That's a private road. Who  
are they to say? The whole thing is stupid.

CHAIRMAN EWASUTYN: When you say who  
are they, meaning who?

MR. VanVOORHIS: The entire Board. What  
gave you the right to tell them what --

MR. DONNELLY: The document that's  
recorded in the Orange County Clerk's Office sets  
forth what rights they have or do not have. We  
have to look at it. There's a recorded document  
that says what the rights of --

MR. VanVOORHIS: Well that's fine. But  
once you find out you have a problem, you don't  
make a decision. I pay taxes the same as  
everybody else here.

MR. DONNELLY: I think I recommended to  
the Board that they do not make a decision  
tonight.

MR. VanVOORHIS: Tonight. The next  
meeting --



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MR. DONNELLY: They have to make a decision on the application at some point. They have property-two days from tonight to make a decision --

MR. VanVOORHIS: I want to make sure in advance.

MR. DONNELLY: -- or it's automatic.

CHAIRMAN EWASUTYN: What happens when the public hearing is extended is we'll set a date tonight for that extension and that's the date that you'll walk away with. You won't be renoticed.

MR. VanVOORHIS: Let me explain something to you just for a second. Two lots up what used to belong to the family of Pallodeus, somebody bought the property and they decided they wanted to make a fifty-foot entrance, not saying what they were going to do with the property. The Town Board approved everything. They make a trucking thing in there and a big metal building, they use it for storage. It's had about four or five tenants but still trucks going by our house. The Town Board should have known that. If they did, they didn't talk about

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it or tell anybody about it. The same thing could happen with this property. The same thing could happen to those people's homes.

CHAIRMAN EWASUTYN: What we're going to be looking at tonight is what was proposed this evening. What Mike Donnelly is going to look at, for simple terms, is the legalese that are expressed in these documents. After he has the time to review them, then he'll make a comment to us as to what rights we have, what rights we don't have. The continuation of the public hearing, the date will be set tonight. There won't be a future mailing but you'll leave here tonight with that date.

What we're reviewing, Mr. VanVoorhis, is what's before us tonight as far as the subdivision and lot line change. The legal instruments, Mike Donnelly, the Planning Board Attorney, hasn't had the time, will take the time to review, and we'll have one other meeting on this.

MR. VanVOORHIS: Then you shouldn't have had this. If he didn't have all the information, you shouldn't have had this meeting.

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You wasted your time and ours.

CHAIRMAN EWASUTYN: It's not a waste of time. It's a learning experience. The purpose of a public hearing --

Mike, let's go back one more time. Mike Donnelly, would you repeat your opening statement as to the purpose of a public hearing as it relates to a waste of time? Michael.

MR. DONNELLY: The purpose is for you, the members of the public, to bring forward to the attention of the Planning Board concerns that it may not be aware of. That's precisely what's happened this evening.

CHAIRMAN EWASUTYN: So it wasn't a waste of time. It was a get together, a public residence.

MR. VanVOORHIS: Don't you think you should have done some research? I don't understand.

CHAIRMAN EWASUTYN: That's not the purpose. The purpose of the meeting is what we're doing tonight.

MR. VanVOORHIS: Okay.

CHAIRMAN EWASUTYN: The last question.

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MR. LOPEZ: My final question is you guys have all the legal terms for everything and I don't. Can I just ask that the time that you're giving for the next date or to make this decision is enough time for me to actually seek legal, if I need, and be able to find all this information out? I just want to have enough adequate time.

CHAIRMAN EWASUTYN: Will Friday be enough time?

I'll move for a motion that we reset this for a public hearing for the 15th of January.

MR. WARD: So moved.

MR. DOMINICK: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

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You have until the 15th of January. It won't be renoticed. There's enough of you residents here that you can talk to those that aren't here. You can inform the landscaper who probably isn't here who started all of this and we'll all be on board. Okay.

MR. LOPEZ: Is it at the same time?

MR. WARD: 7 p.m.

MR. BROWN: Yes.

MR. WARD: Ken, how many mailings did they do?

MR. PROFACI: There are a total of -- this list right here. Like ninety.

MR. WARD: How many received?

CHAIRMAN EWASUTYN: They're not certified mailings.

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

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

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DATED: December 20, 2014

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

----- X  
In the Matter of

SPRINT NEXTEL  
(2014-01)

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

----- X

INITIAL APPEARANCE  
WIRELESS TOWER UPGRADE

Date: December 4, 2014  
Time: 7:48 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD  
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: CARA BONOMOLO

----- X

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

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MR. PROFACI: The next item on tonight's agenda is Sprint Nextel, project 2014-01, located at 39 North Plank Road at the Mid-Valley Mall, Section 75, Block 1, Lot 11, located in the B Zone. It is a wireless tower upgrade, and this is the initial appearance, being represented by Cara Bonomolo.

Is that how you pronounce it?

MS. BONOMOLO: Bonomolo.

MR. PROFACI: I'm trying my Italian.

MS. BONOMOLO: Good evening. My name is Cara Bonomolo, I'm an attorney with the law firm of Snyder & Snyder, LLP. I'm here this evening on behalf of the applicant, Sprint.

Sprint is seeking approval to modify it's existing wireless telecommunications facility that's located on the existing water tank at 39 North Plank Road. The proposed modification will consist of the installation of three antennas on the existing equipment frame and related equipment also on that frame, and also an additional equipment cabinet on the existing concrete pad in the compound at the base thereof.



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In support of the application we've provided copies of Sprint's FCC licenses, a structural analysis report, an RF statement from Sprint's radiofrequency engineer explaining the need for the proposed modification, a short environmental assessment form and a site plan.

We're happy to answer any questions that you may have.

CHAIRMAN EWASUTYN: Mike Musso from HDR is our Telecommunication Consultant.

Mike, would you bring us along on this application?

MR. MUSSO: As noted, it's an upgrade of an existing cell site, a cell site that's located on the Mid-Valley Mall -- abandoned Mid-Valley Mall water tank that's accommodating a bunch of wireless carriers at this time.

Sprint is rolling out a new frequency band of their network to provide more services. This Board has seen this from Sprint and other carriers over the last several years. A trend is existing cell sites are being upgraded. Older technology that was installed in the early 2000s, for example, or even just a few years ago, is

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SPRINT NEXTEL

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being upgraded to accommodate, in this case a new frequency band from Sprint.

So Nextel historically -- Sprint Nextel, that's one company on top of the water tank, four panel antennas exist. There is space up there for an additional three panel antennas. The proposed panel antennas will be very similar in size and dimension. Any ancillary equipment that was noted at the top of that water tank would be below or behind those antennas as well.

This is consistent with the upgrades that we're seeing from all wireless carriers regionally, and certainly consistent with what this Board has seen in the past as well.

HDR has received the application, and the plans, and the information that was noted. We're in the process of finishing up a tech memo, a three or four-page tech memo that you're used to seeing from us.

Really there are no other major comments on this application.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: My concern was having seven

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SPRINT NEXTEL

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panels on the top for wind resistance. It's more blocking instead of air flow. I was concerned about the strength.

MS. BONOMOLO: We did submit a structural analysis report as part of the application, but I think Mr. Musso will take a look at --

MR. MUSSO: We're presently reviewing that now. It's a good point to mention. Previously panel antennas created their own area -- surface area to capture wind. That wind is translated to the antenna frames and mounts and ultimately down to the structure in some way. That is something that we'll review. We do have a full structural analysis. It appears to be developed in accordance with the industry standards and also with American Waterworks Association standards for water tank structures as well. So our tech memo will address that.

MR. WARD: Basically has it reached it's max on the top?

MR. MUSSO: We'll have to see what's -- make sure we check that out.

MR. WARD: Thank you.

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CHAIRMAN EWASUTYN: Dave?

MR. DOMINICK: No.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: I have nothing, John.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: My only comment concerns the visual aspect of the water tower itself. It seems like it hasn't been maintained very well. The paint doesn't look good on it anymore. Somebody also on the Board brought up the fact the Mid-Valley Mall that's on the tank is all broken up by the pipes and cabling used for the antennas.

MS. BONOMOLO: I mean Sprint --

MR. MENNERICH: I know that's not part of what your application is here for, but the owners of the tower ought to be made aware of the fact that it is becoming an eyesore.

MS. BONOMOLO: We can let them know. Sprint only has control over its specific lease area at the top of the tank as well as its equipment area at the base. I can certainly convey your concerns regarding paint.

MR. GALLI: No additional. Ken brought

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up my concerns.

CHAIRMAN EWASUTYN: I'll move for a motion to set this for a public hearing for the 15th of January.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

Cara, I asked you this before. Any assistance that you could give us with coordination. I know your services don't extend into that next realm, but whoever is going to be involved in the permitting, it becomes -- you know, they'll be in the office the night after we grant you conditional final approval, and if you could help with that it would be great. If you

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SPRINT NEXTEL

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could find out who it is and I'll be willing to get them a copy of the final resolution, but it's something we have to nip.

MS. BONOMOLO: Okay. I think in this instance it will likely be Tectonic. I think that they're familiar with the -- but I will confirm that.

CHAIRMAN EWASUTYN: Great. Thank you.

MS. BONOMOLO: Okay.

CHAIRMAN EWASUTYN: Anything else?

MS. BONOMOLO: Thank you very much.

(Time noted: 7:54 p.m.)

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

----- X  
In the Matter of

ELM FARM SUBDIVISION  
(2000-09)

Wells Road & Fostertown Road  
Section 39; Block 4; Lot 12.44  
R-2 Zone

----- X

FINAL  
52-LOT SUBDIVISION

Date: December 4, 2014  
Time: 7:54 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD

----- X

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MR. PROFACI: The next item on tonight's agenda is the Elm Farm Subdivision, project 2000-09, located at Wells Road and Fostertown Road, Section 34, Block 9, Lot 12.44, located in the R-2 Zone. It is a 52-lot subdivision here for final approval, being represented by KC Engineering & Land Surveying.

They're not here?

MR. WARD: Do you want me to check outside?

CHAIRMAN EWASUTYN: Do that, please.

(Pause in the meeting.)

CHAIRMAN EWASUTYN: Since they're not here this evening, then we can't go any further. We'll have to reconvene this to the 15th of January.

(Time noted: 7:55 p.m.)

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

----- X  
In the Matter of

PETRICK TIMBER HARVEST  
(2000-29)

178 North Fostertown Road  
Section 17; Block 2; Lot 68  
AR Zone

----- X

INITIAL APPEARANCE  
TIMBER HARVEST - CLEARING & GRADING

Date: December 4, 2014  
Time: 7:55 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: CHRISTOPHER PRENTIS

----- X

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MR. PROFACI: The next item on tonight's agenda is Petrick Timber Harvest, project 2000-29, located at 178 North Fostertown Road, Section 17, Block 2, Lot 68, located in the AR Zone. It is a timber harvest clearing and grading and this is the initial appearance, represented by Chris Prentis.

MR. PRENTIS: Good evening. I'm Christopher Prentis, Lower Hudson Forestry.

This application is for a timber harvest on parcel 17-2-68 owned by Margaret Petrick. It's located off of North Fostertown Road.

The property is 34.1 acres of which 20 acres are being considered for harvesting. 235 trees were marked with purple paint, all hardwood, 14 to 29 inches in diameter. It's approximately 12 trees per acre.

Old skid trails and an old landing area will be used for the project. The skid trails will be stabilized and cleaned of debris at the end of the project as will the landing area.

Of note, the landing area is actually 900 feet off of North Fostertown Road. Access to

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the property is from a gravel driveway.

CHAIRMAN EWASUTYN: I have one question in general. What are water bars?

MR. PRENTIS: They're just a water diversion device to prevent erosion. So you would angle a small hump of dirt on a trail and it would kick water off into the woods so you won't get water running down a long stretch of trail causing erosion.

CHAIRMAN EWASUTYN: And rolling dips?

MR. PRENTIS: Similar to water bars. A rolling dip would be more something -- a road if you were going to drive a truck or car over it. It's not quite as high as a water bar.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: Is this the first time this property has been logged?

MR. PRENTIS: Twenty or twenty-five years ago, it looked like from the stumps, it was logged.

CHAIRMAN EWASUTYN: Anything else, Frank?

MR. GALLI: I was just curious.

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MR. MENNERICH: Nothing.

MR. PROFACI: No.

MR. DOMINICK: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: I would like to pay you a compliment. I met the forester who works for the building department at the post office the other day and he spoke very favorably of you. He had communication with you on the Monte property. He said you turned that around in a matter of fifteen minutes, contacting the logger, you got back to him and he said you're professional and you respond in a professional way. So thank you.

MR. PRENTIS: I appreciate it.

CHAIRMAN EWASUTYN: All right. I'd like to set the 15th of January also for a public hearing for the timber harvest. Do I have a motion to set Petrick Timber Harvest for the 15th of January?

MR. WARD: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward, a second by Frank Galli. I'll ask for

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a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

Thanks ever so much.

MR. PRENTIS: Thank you. Have a good  
night.

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

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

----- X  
In the Matter of

WEBB PROPERTIES  
(2014-10)

Route 17K & Auto Park Place  
Section 97; Block 2; Lots 35 & 43  
IB Zone

----- X

SITE PLAN & LOT LINE CHANGE

Date: December 4, 2014  
Time: 8:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: WILLIAM JAMES  
LARRY MARSHALL

----- X

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MR. PROFACI: The next item on tonight's agenda is Webb Properties, project 2014-10, located on 17K and Auto Park Place, Section 97, Block 2, Lots 35 and 43. It's located in the IB Zone. It's a site plan and lot line change. It's being represented by A. Diachishin & Associates.

MR. JAMES: Since our last time at this Board we've changed the subdivision to include additional lots. We now have -- we're now showing a seven-lot subdivision. Five tax lots are affected. The former Park Motors, now Hudson Valley Chrysler; the office building; Chase Bank; GM Service Center; and the former HSBC Bank. The former HSBC Bank, the vacant parcel with the new dealership, the parcel just to the east and the GM parcel -- GM Service Center parcel were on the last map, and these other three lots are now included in the subdivision. I'm referring to comments from Pat Hines regarding the subdivision.

As we come off 17K on Auto Park Place, we're moving the lot line to the center of Auto Park Place now. We have a situation with an

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existing setback from the Chrysler building and from the Chase building where less than the required fifty-foot distance, and I understand that this does have to go to the Zoning Board of Appeals even though it's an existing condition.

MR. DONNELLY: That's correct.

MR. JAMES: Okay. And then I'll need a referral on that as well.

As far as the other comments, I don't see any other comments regarding the subdivision that I have any questions on.

CHAIRMAN EWASUTYN: Mark Edsall is here this evening covering for Pat Hines.

For the record Mark, would you cover the details?

MR. EDSALL: Pat did confirm in his comments that this does need to go to the Zoning Board. He's asking that some additional setback dimensions relative to lot 5 and lot 6 be shown and measured to the right-of-way line. Not the center line, the right-of-way.

He's suggesting that this plan incorporate also all the cross easements, utility easements, access easements. That is a good idea

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for the record document that's filed as well, to have those depicted. Sometimes applicants create a separate easement sheet just because of clarity because of how dense the plan gets. Pat is suggesting that.

He's recommending that the map also include a reference to Section 185-21 of the Town Code regarding buffer strips and screening. Since there will be future development that would be adjoining the R-2 Zone, that is more cautionary, then if anyone looks at the subdivision plat as part of acquisition of the lot they're aware of that section of the Town Code.

He's also reminding the Board, as I'm sure you're aware, that due to the proximity of Route 17 this will require a County referral as well. A lot of these issues can be finalized following the action of the Zoning Board.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: I have nothing additional on the subdivision.

CHAIRMAN EWASUTYN: Any comments from

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Board Members?

MR. GALLI: On the subdivision, no.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. DOMINICK: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Mike Donnelly,  
could you give us the language for the letter  
that you're going to be sending for referral to  
the Zoning Board of Appeals?

MR. DONNELLY: It will be referred for  
the following variances on lot 6: a front yard  
setback variance. On lot 7 both front yard  
variances because it's a corner lot.

CHAIRMAN EWASUTYN: Thank you.

I'll move for a motion to circulate  
this to the Orange County Planning Department.

Robert, if you could get plans to Pat  
Hines' office, we'll do that circulation.

MR. DOMINICK: I'll make the motion.

CHAIRMAN EWASUTYN: I was going to make  
two parts to this motion. I'm going to make a  
motion we set this for the 8th of January for a  
public hearing, and this motion will carry

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through to the site plan. We'll do a combination on the 8th for a public hearing on both the subdivision that's before us this evening and for the site plan which is after, being application 2014-10.

MR. DOMINICK: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion from Dave Dominick. I believe he moved that. A second by John Ward. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. DONNELLY: John, we discussed at work session that this is ready for a negative declaration, and that should be in place before the public hearing is held. You might want to

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call for a motion for a negative declaration.

CHAIRMAN EWASUTYN: Based upon the advice of Mike Donnelly, I'll move for a motion to declare a negative declaration on Burke Realty and Webb Properties subdivision application.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

We can't act on any final approval after the public hearing until you receive the variances from the ZBA. I'm not quite sure what their time is. Just so you leave here knowing that final approval is subject to the ZBA's

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approval.

You'll get plans to Pat Hines' office.

MR. PROFACI: The next item is Webb Properties, the site plan portion.

MR. JAMES: The site plan has been revised, mostly in the area of stormwater detention and management. Most of the site now is going to drain to a porous pavement or to infiltration basins.

Mr. Larry Marshall is here to address the SWPPP, if you have any questions regarding that. Larry would like to make a few comments.

MR. MARSHALL: Good evening. We took the previous plan, revised it fairly substantially to have basically all of the display portion of the site for the new vehicles be porous pavement.

We completed the infiltration testing as well as the deep test with very good results. Very good infiltration rates really across the board in all of our areas.

There is a small portion here that has quite a bit of clay. Not very good results but still substantially higher than what is required



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to meet the infiltration rates.

We were able to actually lower the elevation of the building by two feet as part of this to basically get it back to -- down to approximately where the existing grade is. The building is going to sit slightly higher than what existing grade is, about one foot right in the center of the building. Previously it was about three feet higher, so it's really come down quite a bit.

We've reduced substantially the amount of catch basin and stormwater piping. We've eliminated all of the previously shown retaining walls.

The treatment along the common driveway or access road will be completed on the east side by a couple of infiltrating dry swales, and then really the Chevy and Cadillac dealership will all be collected and treated in the infiltration portion of the porous pavement and a small infiltration basin adjacent to that.

CHAIRMAN EWASUTYN: Mark Edsall, you've worked with Pat Hines on this.

MR. EDSALL: Sure. I'll make the

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comments a little out of order. I like to say positive comments first.

Pat did share that the stormwater management plan and redesign was accomplished, and he believes it was a vast improvement.

He's indicating that the green infrastructure runoff reduction and the retaining walls have been removed. The green infrastructure has been added. At this point, based on the SWPPP that was submitted, he's taking no exception, and is in fact very positive on the changes that have been made. So that's in good shape.

Some other things that need to progress a little further are some coordination of the drawing sets so that all the features match from sheet to sheet, which I'm sure is something that's in progress now.

One item that needs further attention is the landscaping on the site. It needs to be expanded and brought into consistency with the Town's standards and make it consistent with other development requirements. So that is an item that needs some further attention.

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Obviously there's the outstanding issue of the DOT review and acceptance. That is probably the largest timing issue.

It needs a County referral due to the proximity to 17K. So that referral, the Board has a choice of sending it now, or my suggestion is you possibly wait for a coordinated set of plans so that the County doesn't point out that there's inconsistencies drawing to drawing.

The site improvements relative to water and hydrants, the notes need to be made consistent with the Town of Newburgh water department standards.

Last but not least, a flow acceptance letter from the City of Newburgh needs to be obtained.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Just one question. At one point I thought Mr. Barton had submitted brochures for the use of potential solar panels. Is that still a possibility or no?

MR. BARTON: No. We're still working with the solar company, so if it comes about it's

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going to be at a later time. It's just that the rules are changing so fast with that and the State that we've just decided to hold off. So there won't be any type of structure to support the panels.

MR. CANFIELD: Okay. So it's nothing that impacts this application then at this time. Okay. That was it.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No comment.

MR. PROFACI: No comment.

MR. GALLI: On the City flow acceptance letter John, they still have to -- they have one for the building they're in now. They just have to for the additional?

CHAIRMAN EWASUTYN: The new building.

MR. MENNERICH: It hasn't been sent yet?

CHAIRMAN EWASUTYN: No.

Are you familiar with that whole procedure?

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MR. JAMES: No.

CHAIRMAN EWASUTYN: Do you want to explain it to him?

MR. EDSALL: I best leave that for discussion between Pat and the applicant's reps.

CHAIRMAN EWASUTYN: Jerry, are you prepared to discuss that?

MR. MARSHALL: We're aware of it.

CHAIRMAN EWASUTYN: You know the gallons. They have to come up with the gallonage calculation and then present it to Jim Osborne, Jim Osborne prepares a letter to Marcy, the City attorney, and then once we get that back. Bearing in mind of all the approvals that are necessary from now until conditional final site plan approval, that is the dominant approval. We can't act on anything final until that's in place.

MR. GALLI: Right.

CHAIRMAN EWASUTYN: Mike Donnelly, do you want to give us conditions for a negative declaration or --

MR. DONNELLY: I think you issued it earlier on the subdivision application. I had

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assumed it was for the entire project. I think it's already in place.

CHAIRMAN EWASUTYN: I guess just to reinstate it, I'll move for a motion to declare a negative declaration for Webb Properties, application number 2014-10.

MR. GALLI: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

I'm sure by the 8th of January when you have a public hearing, the plans that you bring in at that particular time will be complete, at which time we'll circulate to the Orange County Planning Department.

MR. BARTON: A question on the

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landscaping. One of the standards is, I believe, one tree for every eight parking stalls. The new car storage, does the automobile storage count as parking or is it just the employees and the customer parking stalls?

CHAIRMAN EWASUTYN: Jerry?

MR. CANFIELD: Good question. I don't have an answer for you.

CHAIRMAN EWASUTYN: Jerry will look that up. Jerry will work with Pat Hines.

MR. DONNELLY: We should look at other automobile dealership site plans to see how we've handled it.

MR. GALLI: We didn't do it at Toyota.

MR. DONNELLY: We wanted to see some landscaping to screen that gigantic mass of cars. I don't think we used the eight --

MR. BARTON: If we went with the current parking that we have for employees and stuff, there are actually -- there's probably sufficient trees on that plan.

MR. DONNELLY: That's my guess. Jerry will check to be sure.

MR. BARTON: It does look a little

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sparse. We'll find some places for some more trees.

MR. DONNELLY: I know that sea of cars is beautiful to you but it may not be to the --

MR. BARTON: It is. When you're moving out to 17K, you know, it's not -- for me it's not a landscape business, you know. We're there to sell cars. So I appreciate that you recognize that.

CHAIRMAN EWASUTYN: There are standards for everyone. I gave you three examples of site plans that everyone was willing and ready to comply to. So I think your feet are out to the fire based upon what everyone else is doing.

MR. BARTON: Yup. I'll get with Jerry and we'll find out what that standard is.

MR. WARD: You see how Toyota looks. It's attractive but you have the cars and trucks shown.

MR. BARTON: I agree.

CHAIRMAN EWASUTYN: Anything else?

(No response.)

MR. BARTON: Thank you.

(Time noted: 8:17 p.m.)



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

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

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DATED: December 20, 2014

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

----- X  
In the Matter of

HUDSON VALLEY PERSONNEL SUPPORT CENTER  
OF JEHOVAHS WITNESSES  
(2014-17)

1292 Route 300  
Section 97; Block 2; Lots 30.1, 30.22 & 33  
IB Zone

----- X

SITE PLAN & LOT LINE CONSOLIDATION

Date: December 4, 2014  
Time: 8:17 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD

----- X

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

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CHAIRMAN EWASUTYN: I'll make a motion we reschedule that to the 18th of December, please.

MR. PROFACI: I'll move that we reschedule this to December 18, 2014.

CHAIRMAN EWASUTYN: Would you name the property?

MR. PROFACI: It is the Hudson Valley Personnel Support Center of Jehovahs Witnesses located at 1292 Route 300, Section 97, Block 2, Lots 31.1, 30.22 and 33, in the IB Zone for site plan and lot consolidation.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:18 p.m.)

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

----- X  
In the Matter of

LONGVIEW FARM  
(2006-39)

Request for a Six-Month Extension from  
December 14, 2014 until June 14, 2015

----- X

BOARD BUSINESS

Date: December 4, 2014  
Time: 8:18 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD

----- X

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LONGVIEW FARM

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MR. PROFACI: We have two items of Board Business. First is Longview Farm, project 2006-39. The applicant is requesting a six-month extension of the project from 14 December 2014 through 14 June 2015.

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 ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 8:19 p.m.)

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

----- X  
In the Matter of

GODDARD/TESLA  
SOUTH UNION PLAZA  
(2006-41)

Architectural Review  
Electric Charge Station

----- X

BOARD BUSINESS

Date: December 4, 2014  
Time: 8:19 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES

----- X

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MR. PROFACI: The second item is the ARB for Tesla Motors.

CHAIRMAN EWASUTYN: Let the record show that the Planning Board looked at the plans presented and we approved them subject to the building department -- any conditions the building department wants to put on it. Okay.

(Time noted: 8:19 p.m.)

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

----- X  
In the Matter of

PROPOSED LOCAL LAW  
RE: PERSONAL SERVICE STORES

----- X

BOARD BUSINESS

Date: December 4, 2014  
Time: 8:20 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
MARK J. EDSALL  
GERALD CANFIELD

----- X

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MR. DONNELLY: John, one last item. There was a request of the Town Board for any additional information you wanted to give on the proposed local law allowing personal service stores in certain zoning districts.

The letter from Mark Taylor tells us that only one change has been made to the draft of the law you earlier reviewed, and that is the insertion of the phrase "without warehouse" in the definition after express mail/courier.

We discussed this at work session and you have authorized me to notify the Town Board that we have no comments to add that are in addition to those contained in the letter I wrote on your behalf dated November 7th.

CHAIRMAN EWASUTYN: Is the Board in agreement?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Mike, would you please.

With that, I'll move to close the public hearing of December 4th -- not the public hearing, the Planning Board agenda.

MR. GALLI: So moved.

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MR. WARD: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

(Time noted: 8:21 p.m.)

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DATED: December 20, 2014