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

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In the Matter of

SANTA MONICA HOLDINGS  
(2010-03)

5266 Route 9W  
Section 20; Block 2; Lot 30.21  
B Zone

----- X

SITE PLAN  
ARCHITECTURAL REVIEW BOARD

Date: December 16, 2010  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO

----- X

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

1  
2 MR. PROFACI: Good evening, ladies and  
3 gentlemen. Welcome to the Town of Newburgh  
4 Planning Board meeting of December 16, 2010.

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

7 MR. GALLI: Present.

8 MR. MENNERICH: Present.

9 CHAIRMAN EWASUTYN: Present.

10 MR. PROFACI: Here.

11 MR. FOGARTY: Here.

12 MR. WARD: Present.

13 MR. PROFACI: The Planning Board  
14 employs various consultants to advise the Board  
15 on matters of importance, including SEQRA issues.  
16 I ask them to introduce themselves at this time.

17 MR. DONNELLY: Michael Donnelly,  
18 Planning Board Attorney.

19 MS. CONERO: Michelle Conero,  
20 Stenographer.

21 MR. CANFIELD: Jerry Canfield, Town of  
22 Newburgh.

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

25 MR. COCKS: Bryant Cocks, Planning

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Consultant.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

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

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

(Pledge of Allegiance.)

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

MR. PROFACI: The first item on tonight's agenda is Santa Monica Holdings at 5266 Route 9W, Section 20; Block 2; Lot 30.21, located in the B Zone. It is a site plan and ARB being represented by Joseph Minuta.

MR. CAPPELLO: Good evening everyone. My name is John Cappello, I'm an attorney with Jacobowitz & Gubits here on behalf of the applicant. I also have Joe Minuta, Joe is the project architect; Peter Romano, who is the project engineer; and Keith Slifstein, who is the principal and developer of the project.

1  
2 We were here probably a couple months  
3 ago to receive concept plan approval and received  
4 a list of comments and concerns from both the  
5 Planning Board and its consultants. What I  
6 wanted to do right now is kind of give you an  
7 overview of what we submitted. We submitted a  
8 response letter and a package responding to each  
9 and every comment by the Board's consultants in  
10 trying to address your comments to the best we  
11 can, given some of the site constraints, because  
12 this is an existing developed site with existing  
13 paved areas, a stream in wetlands located in part  
14 of the parcel. So it makes it a little  
15 difficult.

16 I'm going to give you a brief overview  
17 of the concepts of what we've done to address  
18 your comments, and then, if you have any specific  
19 comments that I can't respond to, I have Peter  
20 and Joe here to assist me.

21 One of the first general areas the  
22 Board was really concerned about was what we were  
23 going to do with the existing parking areas,  
24 whether we would pave it to Town standards. We  
25 had looked to keep the hard gravel path. We went

1  
2 back and forth a little bit, but what we did now  
3 is you will have a full depth parking lot  
4 meeting the Town of Newburgh standards with  
5 curbing all around the parking area. Because we  
6 included -- did that extra disturbance to include  
7 the curbing and full depth parking area, we had  
8 to prepare a stormwater SPDES because now we were  
9 certainly over the acre of disturbance. So in  
10 your package, submitted both to the Board and the  
11 engineers, is a full SWPPP, State Water Pollution  
12 Protection Plan, demonstrating how the stormwater  
13 plan will meet all Town and New York State DEC  
14 guidelines for stormwater protection.

15 We also resized the septic system to  
16 make sure that the septic system occupancy now  
17 corresponded with the parking and the building  
18 occupancy to, you know, ensure that it will be  
19 adequate for the site. We met with the DOT and  
20 talked to them about certain issues.

21 In response to the question I'm sure  
22 that's going to come up, the DOT has pretty much  
23 advised us that at least one, potentially two of  
24 the three entrances on 9W will now be closed off.  
25 That's not depicted on your plans yet because we

1  
2 just got the word from them subsequent to our  
3 submission of plans.

4 Another area, you know, that was of  
5 concern to the Board was the landscaping and the  
6 view from what we were going to do with 9W. Once  
7 again this is what brings in kind of the site  
8 constraints because we wanted to keep the parking  
9 area -- if you look at the plan, you have some  
10 wooded areas here and you have the stream. We  
11 were really restricted in how far back we could  
12 move the parking to provide a stonewall or a lot  
13 of landscaping outside of the DOT right-of-way  
14 because the DOT wouldn't allow permanent fixtures  
15 within the right-of-way or any plantings above  
16 thirty feet. So we tried to do -- thirty inches.  
17 We tried to address it in two ways. One, we went  
18 along DeVito Drive here. We'll build a stonewall  
19 along the portion of DeVito Drive towards the  
20 entrance, curving around, to some extent, with  
21 concentrated landscaping along the area so when  
22 you're approaching -- heading south on 9W, as you  
23 approach the site you will see a stonewall  
24 towards the entrance and you will see a heavily  
25 landscaped area. We did the same thing on the

1 southern portion of the site, curbed the  
2 stonewall there, put some features and some trees  
3 there. So as you're approaching the site driving  
4 on 9W, the first thing you will see as you  
5 approach the site is a stonewall -- you know,  
6 portion of a stonewall in a heavily landscaped  
7 area. We then supplemented the plantings along  
8 DeVito Drive and put some screening around the  
9 detention area which, you know, most detention  
10 ponds there's really no big structure there, it's  
11 really a depressed area with some grasses and  
12 everything. There are large boulders already  
13 existing on the site which will screen it along  
14 with the plantings.  
15

16 Now to go over and give you an idea of  
17 what we're doing on 9W. We did this with the  
18 DOT. In concept they did not seem to have any  
19 problems but you can see how along the fencing --  
20 this is the site as it exists now. So you see the  
21 existing, you know, parking areas and the wooded  
22 area that we don't want to extend.

23 MR. PROFACI: Turn it. There's a glare  
24 on there.

25 MR. CAPPELLO: We wouldn't want to

1  
2 extend too far back, so we tried to nestle this  
3 in, to the extent we can. You see the facade on  
4 the front of the building will be redone to match  
5 the existing building. There are areas of  
6 concentration on both corners of landscaping, and  
7 then along the front we will have hedges. I know  
8 we called for Boxwood. There was a comment that  
9 we received that maybe Boxwood is not the best,  
10 so --

11 MR. MINUTA: Bayberry or Inkberry.

12 MR. CAPPELLO: -- Bayberry or Inkberry.  
13 We'll work with your landscape consultant to come  
14 up with something that can be maintained at the  
15 thirty-inch height, that can provide some  
16 screening for the cars, and we would supplement  
17 it with breaks and some plantings. During the  
18 spring, summer and fall, you know, some  
19 perennials that would look nice.

20 As part of your concern we would  
21 certainly be willing, and Mr. Slifstein has said,  
22 to commit to maintain that. We want an  
23 attractive site. We know because of the  
24 limitations there, to make those hedges work and  
25 those perennials and keep the appropriate, River



1  
2 Rock which we decided to put River Rock there  
3 instead of mulch because of plowing and  
4 everything would rip that up. It would provide  
5 more protection next to the road but would take  
6 more maintenance. If the Board were willing to  
7 put a -- was so desired to put a note on the map  
8 that the landscaped areas, especially along 9W,  
9 will continue to be maintained and make that a  
10 continuing condition of the site plan approval to  
11 give the Board a little more comfort that it will  
12 not only be planted as such but it will be  
13 continued to be maintained to provide the maximum  
14 screening that we can do given the site  
15 limitations.

16 Those I believe were the main areas the  
17 Board had commented on. I think we've, you know,  
18 attempted to meet your concerns to the extent  
19 that we can and still keep the site economical  
20 and attractive. I think Joe has done a nice  
21 building back there. We'll have exposure. As  
22 you're approaching from 9W, there's a nice  
23 attractive view. Redoing the facade here will  
24 make this obviously a much more attractive site  
25 and hopefully a viable use for years to come.

1  
2 With that, if the Board has any  
3 questions or any particulars. Obviously, like I  
4 said, I have Joe and Peter who are here for any  
5 details, comments the Board may have.

6 CHAIRMAN EWASUTYN: Pat, you reviewed  
7 the stormwater management.

8 MR. HINES: In response to our previous  
9 comments the applicant's representative has  
10 provided our office with a stormwater pollution  
11 prevention plan that is compliant both with Town  
12 of Newburgh and the DEC's standards.

13 We have a couple technical comments  
14 that need to be addressed, but overall the plan  
15 is acceptable.

16 The parking lot has been upgraded to  
17 comply with the Town of Newburgh specs. That was  
18 in our previous comments.

19 The sanitary sewer system design has  
20 been modified to comply with the proposed  
21 hydraulic loading with the use of the building,  
22 the number of people in the building.

23 So with a couple of technical comments,  
24 the stormwater management plan is acceptable. It  
25 does a really good job and implements some of the

1  
2 bio-retention, some of the more green  
3 infrastructure on the site.

4 I noted also that County Planning  
5 commented on it also and appreciated the use of  
6 the bio-retention uses that have been  
7 incorporated in the reconstruction of the parking  
8 lot. So I believe that comment has been  
9 addressed.

10 Our next comment has to do with the DOT  
11 site access, which was addressed. I know Ken  
12 Wersted will do that.

13 The highway superintendent, we need a  
14 sign off from him on the access drive.

15 There is a strange curb arrangement  
16 around an existing catch basin. I usually don't  
17 like to do that because during inclement weather  
18 you can not see that potentially walking along  
19 there. So that catch basin may need to be  
20 relocated or an additional one added. When you  
21 meet with the highway superintendent in the field  
22 you can discuss that.

23 Just a note that the Health Department  
24 needs to approve the septic system after a DEC  
25 SPDES permit is issued. It still is over 1,000

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gallons.

With that, that's the extent of our comments. The rest of them were addressed on the plan.

We would have no exception to the Planning Board issuing a negative declaration based on our comments being addressed. I know some of the other consultants have some.

CHAIRMAN EWASUTYN: Jerry, I think you had the opportunity to read the seating, the occupancy and also look at the parking stalls that are being shown. Is that, in your opinion, what the code calls out for? And, if so, can you explain it for the record?

MR. CANFIELD: Yes. During the last appearance before this Board and also at the work session we had discussed the possibility of the floor plan facilitating the parking by means of utilizing the actual occupant load designated for the building, and then applied the zoning parking requirements in our bulk table to come up with the required parking number. The applicant's design professional has displayed to the Code Compliance Department a floor plan for the

1 building which utilizes the multiple occupant  
2 load calculations for fixed seating, linear  
3 inches per seating in pews and benches and also  
4 barroom or bar occupancy, standing and sitting at  
5 a bar. There's three different methods used for  
6 the calculations. They come up with an occupant  
7 load of 196 for the building, which I concur  
8 with. It does comply with the building code  
9 requirements as far as setting the occupant load  
10 for the building. Applying that 196 with the one  
11 parking space for four occupants per our Zoning  
12 Code makes the requirement of 49 parking spaces  
13 for this two-story new proposed establishment.  
14 The existing building, which is approximately  
15 1,300 square feet of retail space, using the  
16 parking calculation of one spot for 150 square  
17 feet of leasable space would require 13  
18 additional spaces, totaling the parking spaces to  
19 62, which the plan does comply with. So with  
20 respect to the number of the required parking and  
21 what's provided, I can say that yes, it does  
22 comply.  
23

24 CHAIRMAN EWASUTYN: Ken Wersted,  
25 Traffic Consultant? I guess the DOT was

1  
2 listening to your comments as far as the access  
3 on 9W and will eventually come up with a limited  
4 amount. Do you want to continue with your  
5 review?

6 MR. WERSTED: It sounds like they're  
7 thinking along the same lines as I think. Their  
8 first look at the project has kind of  
9 demonstrated in their, I think, letter of  
10 December 3rd or December 7th. It's kind of just  
11 an arbitrary or just almost a form letter in the  
12 sense that all right, we've got the materials,  
13 we're going to start looking at them, and when  
14 they start to get into the details is when  
15 changes are made. We reiterated that comment,  
16 that there's three driveways now, two on 9W, and  
17 it doesn't seem like there was a need to have  
18 that many. Obviously DOT will be looking at that  
19 and likely making a recommendation to remove one  
20 or two of those from the plan based on your most  
21 recent conversation with them.

22 The other comment that we had had to do  
23 with the sidewalk along the frontage. The Quik  
24 Chek project to the south I think was recently --  
25 I don't know if it was approved for final but

1 they've been working with DOT as well in terms of  
2 determining the termination point of the  
3 sidewalk. DOT basically said to terminate it at  
4 the property line so that it could be extended in  
5 the future. This site would provide for the  
6 opportunity to have it extend up to the DeVito  
7 Drive. I know there is some concern about the  
8 area that's available in front of the site, but  
9 there may be some site plan details that could be  
10 worked out. For example, some of the aisle  
11 widths, they might be 33, 27 feet. There might  
12 be an opportunity to narrow that down and gain  
13 some on the Route 9W side.

14  
15 Our last comment had to do with the  
16 parking lot. Mainly at the southern end of the  
17 site the parking lot is actually in the  
18 right-of-way. Along with your conversations  
19 about the entrances, I'm sure DOT will look at  
20 that as well and make a determination whether  
21 they want the parking lot out or whether they  
22 would be interested or available to discuss the  
23 use and occupancy permit which would allow the  
24 applicant to, under agreement with DOT, use that  
25 area of the right-of-way for their parking or for

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other uses.

So with that, those are our only comments. I think they involve mostly site plan issues.

CHAIRMAN EWASUTYN: Karen, you're reviewing the project based upon the design guidelines, --

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: -- and also what's required as far as the number of trees and the code for the number of parking stalls. I know you had some design guideline comments to make and also to keep consistency with what we have approved along that corridor. That's the issue before us this evening.

MS. ARENT: The design guidelines require -- well, they ask for the parking to be put on the side of the building or behind it. In the past we found that applicants don't really want to do that. So the Planning Board -- also in the design guidelines it asks for the parking to be screened by stonewalls or another type of structure that's long lasting, and in order -- if the applicant doesn't want to or feels that it's



1 not prudent to put the parking on the side or  
2 behind the building, they often use the stonewall  
3 and adequate landscaping to screen it. The  
4 problem with this project is that the parking is  
5 right on the property line and there's no space  
6 to grow screening -- successfully grow screening  
7 to screen the parking. The Bayberry plants that  
8 were mentioned, that grows six to ten feet tall.  
9 I don't think that you're going to be able to  
10 keep it at a thirty-inch height. The Inkberry is  
11 another plant that doesn't really like those  
12 tough conditions on Route 9W. Right now you have  
13 the Junipers growing there, and that's the plant  
14 that will love that space. There's very few  
15 plants that will love that space. So in order to  
16 screen the parking, I think you really have to  
17 move the parking back and come up with another  
18 solution, and make sure that the screening is  
19 long lasting.

21 It would be great if it's consistent  
22 with other projects along the 9W corridor where  
23 they put in stonewalls and things like that that  
24 really -- we know that the stonewall is going to  
25 -- it's not going to die on us. So that's one of

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the issues with the plan.

Then we need more trees. There's supposed to be one shade tree for every eight spaces. So there needs to be more street trees. I'm sorry. Parking lot trees.

I did take a look at the site. There's pretty good -- for the winter screening, there's pretty good screening between property -- the house right here. For the house right here, across from DeVito Drive, there needs to be additional screening of the facility. Their backyard, they have a little seating area that kind of overlooks this whole site.

That's it. You have my comment about the River Rock. I just wanted you to be aware that it doesn't regenerate the soil and provide habitat for micro-organisms, and that's for certain types of plants to thrive.

Junipers, again, is another plant that will tolerate Red River because they don't need as rich of a soil.

So that's it.

CHAIRMAN EWASUTYN: Okay. Bryant Cocks, Planning Consultant?

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2 MR. COCKS: Most of my comments were  
3 addressed by the other consultants.

4 The only one that's outstanding is the  
5 lighting plan. The lighting plan has a bunch of  
6 different kinds of lights. Some were actually 30  
7 feet high and 22, 24 feet high. The Town design  
8 guidelines recommend using pedestrian height  
9 lights in a site like this, and try to maintain a  
10 height of 16 feet which have been also used on  
11 some parts of the site. So I think the Planning  
12 Board should discuss possibly using 16- foot high  
13 lights on the rest of the site, and also discuss  
14 the type of fixtures because right now it's just  
15 a double box fixture. That really doesn't  
16 provide any aesthetic value for the area. That's  
17 the one I have outstanding that wasn't previously  
18 addressed.

19 CHAIRMAN EWASUTYN: At this point I  
20 would like to turn to the Board Members. Frank  
21 Galli?

22 MR. GALLI: We discussed about the  
23 stonewall instead of the actual planting part. I  
24 think that's what we're looking for. They had it  
25 on the last -- our last meeting that we had, I

1  
2 think it was in the minutes that we were leaning  
3 towards a stonewall, and then all of a sudden it  
4 disappeared and we got this stuff back. I don't  
5 know what happened to it.

6 CHAIRMAN EWASUTYN: Ken Mennerich?

7 MR. MENNERICH: The project to the  
8 south, it was mentioned that the sidewalk was  
9 going to end at the property line and not come  
10 out to the road.

11 Also, the DOT required that the  
12 property that the sidewalk was on be part of the  
13 DOT right-of-way. So I guess for this project it  
14 would seem like when you're talking to the DOT in  
15 trying to locate a sidewalk, that should be part  
16 of the discussion. I personally would prefer to  
17 see the sidewalk and the stonewall on 9W.

18 CHAIRMAN EWASUTYN: Joe Profaci?

19 MR. PROFACI: Joe, would it be possible  
20 to have that stonewall there and have the parking  
21 that you want to put and satisfy the requirement?

22 MR. CAPPELLO: I think in conversations  
23 with the DOT, you have two utility lines on that  
24 side of the road. You have the DOT right-of-way  
25 that does not allow, you know, for stonewalls.

1  
2 It's not that we took it off, it would just be I  
3 mean next to impossible. If you look at the site  
4 plan and the photo -- I mean for to us put that  
5 stonewall in and a sidewalk and move the parking  
6 back, we would be taking out a heavily, you know,  
7 wooded area here to relocate the parking. You  
8 would be into, you know, wetlands disturbance.  
9 You need to balance out. That's what we tried to  
10 do. That's why where we would put stonewalls and  
11 we could concentrate screening, we did so. The  
12 approaches will be consistent with, you know,  
13 Quick Chek's. To move this all back you would  
14 significantly -- you'd take out a lot of existing  
15 vegetation that screens the folks on DeVito  
16 Drive. That kind of, you know, separates the  
17 commercial portion of 9W from the residential  
18 areas on 9W, and you just would be killing a lot  
19 of mature, large vegetation to put up, you know,  
20 an artificial stonewall. That's why where we  
21 could do it for decorative purposes and screening  
22 purposes we did try to do it. Along the front of  
23 9W it's not --

24 MR. PROFACI: I didn't understand where  
25 all this mature vegetation is along 9W.

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MR. CAPPELLO: Not along 9W, but by moving everything back, this is the mature vegetation, it would include the wetlands here.

MR. PROFACI: My question was there is not enough room --

MR. CAPPELLO: Exactly.

MR. PROFACI: -- there to put that stonewall and the vegetation in order to comply with the design guidelines?

CHAIRMAN EWASUTYN: Karen?

MS. ARENT: I made my comment in two pieces because at the corner it's possible to move the whole parking lot towards the east and not disturb any mature vegetation whereas --

CHAIRMAN EWASUTYN: Why don't you come up to the front of the board.

MS. ARENT: Sure. This area here, this parking area heading this way, there's no mature vegetation in this area. What would be really beautiful is if the stonewall wrapped around like this so that when you're approaching from this area you have a really good view of the stonewall and ample vegetation in the front. This is where it's a little more difficult to put the stonewall

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because of their environmental constraints.

So I mean I think the parking lot might be able to be moved back a little bit. I mean I didn't study that area so that -- so this would be a little more difficult to accomplish without -- this is where you mean there's a lot of trees. There's a lot of trees right in here.

MR. PROFACI: So to compensate for the front you're saying the parking -- there would be more parking in the back?

MR. CAPPELLO: Right. Right. You would have to move this -- move the building to go back into this. There's a large area of the site that's going to remain untouched.

CHAIRMAN EWASUTYN: Let's take Karen's point about the corner of DeVito Drive and Route 9W, moving that parking back and extending the wall somewhat to have a visual impact that's pleasing.

MR. CAPPELLO: I don't know if I can give you an answer without looking and going back to it, but I think it's something we would try to work with.

CHAIRMAN EWASUTYN: Why don't we

1 discuss it now and try to come up with an answer.  
2 We're weighing SEQRA issues, we're looking to  
3 consider a motion for a SEQRA determination to  
4 set a public hearing. So in some ways time is of  
5 the essence.  
6

7 MS. ARENT: Also, Ken had a comment  
8 about the width of the aisles. The aisles are  
9 very wide. If the aisles were less wide --

10 CHAIRMAN EWASUTYN: Bring him up and  
11 let's talk about it. This is the stumbling block  
12 we're having.

13 MS. ARENT: Ken, come on up.

14 CHAIRMAN EWASUTYN: Keith, your name is  
15 Slifstein?

16 MR. SLIFSTEIN: Yes.

17 MR. CAPPELLO: What would happen is I  
18 think when we close this we can shift some  
19 parking spaces here and lose these parking spaces  
20 here, and we would -- because we're going to  
21 close this curb, we can put some parking area  
22 here, lose these spaces here and just bring the  
23 stonewall --

24 CHAIRMAN EWASUTYN: Do you have a scale  
25 with you? Does anyone have a scale?



1  
2 For the record, we sometimes talk about  
3 we can do this and we can do that. We're really  
4 talking about something that isn't definitive.  
5 If we could go up there with a scale and come up  
6 with a linear feet of wall, then when it's  
7 resubmitted we know that's what we agreed upon  
8 and it's laid out to that degree.

9 MS. ARENT: They can add about eighty  
10 feet of wall.

11 CHAIRMAN EWASUTYN: Eighty feet of  
12 wall?

13 MR. MINUTA: Total. Total to where it  
14 makes the turn.

15 MR. FOGARTY: Say that again, Joe.

16 MR. MINUTA: An additional sixty feet  
17 over what we currently show.

18 MR. FOGARTY: As you go around the  
19 corner?

20 MR. MINUTA: As you bend the corner,  
21 when you get to this point you're about eighty  
22 linear feet.

23 CHAIRMAN EWASUTYN: John Ward, you had  
24 a question.

25 MR. WARD: My question was because with

1  
2 the parking on 9W, we've been -- we're not having  
3 it. Like it's the guidelines. We were talking  
4 to you about having a wall going down. Now  
5 there's a gas line. I'm sure you can move the  
6 wall even longer down in front and make it  
7 coordinate. I'm talking about --

8 MR. MINUTA: Actually, to answer that,  
9 we have had discussion with DOT. They will not  
10 permit that wall within that location.

11 MR. SLIFSTEIN: Within the  
12 right-of-way.

13 MR. MINUTA: Right. Within the  
14 right-of-way. Which means --

15 MR. WARD: I'm asking you to move the  
16 wall more on the property.

17 MR. CAPPELLO: To do that you'd start  
18 taking out all this vegetation and disturbing  
19 wetlands. So to get your wall on 9W you would  
20 lose the mature vegetation, remove screening from  
21 the, you know, residential area there and get  
22 into wetlands permits and, you know, disturbance  
23 of wetlands. So the cost would be, you know,  
24 astronomical and you would just not --

25 MS. ARENT: There might be a compromise

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in what Ken found. Look and see if you can move the bio-swale closer to the wetland limit lines.

MR. MINUTA: The bio-swale is pretty much --

MS. ARENT: As close to the wetland --

MR. SLIFSTEIN: It's close. It's very close to the --

MS. ARENT: If it looks like you can move it back this far, just move this down.

MR. ROMANO: We could. There's a wall here. We could probably move this wall.

MS. ARENT: I mean it can be massaged. If you see this plan right here, the bio-swale is all the way back here. The parking area Ken moved back a little further. Maybe it's not a wall in this area but tall vegetation that's on their property might be another solution because then they can plant that over the gas line and it wouldn't be such a big deal if the gas line had to be picked up or destroyed with plants as opposed to a stonewall. If you could move this back a little further so you can really grow some plants in here, that would accomplish something better than what's being shown now.

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CHAIRMAN EWASUTYN: You can do that then. Pat Hines is looking at it.

MR. HINES: I was just pointing out the same thing you did, Karen. Those first eight parking spaces can go back towards that stormwater practice and that will give you some room there. Narrow that 33-foot lane to 24.

MS. ARENT: Just to look at it, maybe the stonewall -- I mean it would almost be better to move the stonewall like this a little distance and then put some plants. We have to look at the gas line, too. If you could get some plantings on your property, it's going to have a better chance to live, and we could grow something fairly tall because it will be further away from Route 9W.

MR. MINUTA: I would love to do all of those things truly. The area of influence of the wall itself over the gas line is of concern.

MS. ARENT: We're not asking for that. I made a mistake in saying to bring it down here. It would look nice visually but the gas line is there, so forget that. Plantings we can work with. Nice tall plants that have a good chance

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to live would be a nice, I think, compromise if the Board is okay with that.

CHAIRMAN EWASUTYN: So what we're doing is moving the parking stalls back how many feet?

MS. ARENT: I think they need to study this a little to see. For them to move them back as far as they can without affecting the existing woods.

CHAIRMAN EWASUTYN: For the benefit of all of us, can you suggest, and you don't have to do this, can you suggest certain varieties of material that could be incorporated into that new area?

MS. ARENT: The Bayberry was a great suggestion because it tolerates salt and horrible conditions. It is deciduous but there's very few evergreens that will tolerate that tough condition. Ornamental grass is another more modern look. Because they're not alive in the winter, they tolerate that build up. If you leave them up in the winter it's a nice look. Junipers are already out there. You can get Junipers that grow a little taller that are salt tolerant. Bearberry. Arctostaphylos Uvaursi is the

1 Latin name. It's Bearberry. That's another  
2 plant. Basically your seashore plants are  
3 tolerant in this area. So you just have to make  
4 sure they tolerate the ground conditions that we  
5 have which is because it's not sand here. So  
6 that's the other thing.  
7

8 CHAIRMAN EWASUTYN: John Ward, do you  
9 feel that that's a practical mitigation based  
10 upon the -- it seems like there's some  
11 constraints to this property.

12 MR. WARD: Yeah. All right.

13 CHAIRMAN EWASUTYN: Tom Fogarty?

14 MR. FOGARTY: Where will the entrance  
15 on 9W be? You're only going to have one; right?

16 MR. CAPPELLO: Yes.

17 MR. FOGARTY: Is this going to have any  
18 impact on the wetlands?

19 MR. CAPPELLO: Not as it's designed,  
20 no. The wetlands are located here. We have the  
21 protection and the swales here.

22 MR. FOGARTY: The only other concern,  
23 and I think Karen talked about it, I know there's  
24 one house that may be impacted by the light that  
25 comes from this project, but there's something

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that you can do to protect the --

MR. CAPPELLO: We'll have to locate it out there. I'm sure we can just put some additional evergreens or so if there's a gap or something.

MR. FOGARTY: And then the stormwater area, is that going to be fenced in? You mentioned it's going to be surrounded by stones.

MR. CAPPELLO: Boulders. It doesn't have to be fenced. I've been through this on a lot of projects and I think, you know, a fence is an attractive nuisance whereas in the likelihood of this being a problem, at its depth is very, very low. I've been to some beautiful subdivisions and you go in at the entrance to the subdivision and the first thing you see is a wire fence around this detention area that nobody really -- it's really just a swale. If someone determined they wanted to climb over that fence to get in to the detention area, you would actually have a higher -- because it's an attractive nuisance, it's almost inviting versus a feature. You would have more liability having a fence there because it's like an

1  
2 acknowledgement that it's a potential problem.  
3 If someone goes over the fence and can't get back  
4 up, then you have a much higher instance of  
5 liability than if you just leave it natural and  
6 put a couple boulders around there because the  
7 likelihood of anybody --

8 MR. FOGARTY: The regulations don't  
9 require you to put a fence in?

10 MR. CAPPELLO: No.

11 MR. GALLI: Good attorney.

12 MR. CAPPELLO: I get a feeling if you  
13 ever built some beach front property they're  
14 going to make you fence the ocean because someone  
15 could go in.

16 CHAIRMAN EWASUTYN: Let's talk about  
17 pedestrian-friendly lighting fixtures. We  
18 recently worked with Quick Chek, which is  
19 contiguous to this, and they agreed to 16-foot  
20 high lighting. We're working with another  
21 service station across from Stewart's on 9W, Greg  
22 Shaw is representing that applicant, and they're  
23 putting in 16-foot high lighting there. It's  
24 pretty much a standard that is spelled out in the  
25 design guidelines. What's the likelihood of you



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conforming to the guidelines in that height?

MR. SLIFSTEIN: As long as it gives adequate lighting.

MR. MINUTA: I'd like to actually speak to that a little bit. Some of the confusion there may have been with the lighting. We're using not only the lighting that we're adding to the property, which does not exceed 20 feet, which I believe falls in the guidelines, the 20 foot. That's the maximum we are actually putting up. There currently exists street lights which are mongoose heads that are all located at 30 foot. So rather than overlight the area, we chose to use the lighting that came from those mongoose heads that spill onto the site. When you see the lighting plan, what we have here are -- there's a mongoose head here and there's another one here. They actually come out to the street. That's why you're seeing a lot of the light spill over into the street. That's the DOT's lighting. We checked those specs with Central Hudson and received their data on those lights. So that was incorporated here.

There are also two light poles here

1  
2 that have existing flood lights on them that are  
3 also Central Hudson owned, and those are  
4 operational as well. So that's something that  
5 currently lights the site.

6 The other lighting is actually wall  
7 mounted, and those are the ones that vary from 12  
8 to 14 feet onto the buildings. So that's pretty  
9 much the extent of the lighting on the property.  
10 We're not using a shoebox light, although this is  
11 looking like a shoebox light. The ones that we  
12 actually chose were actually, I think, pretty  
13 sexy lights. They come out and -- they project  
14 from the light pole and there's a very -- if you  
15 give me a moment I can find the light  
16 specification. That's what we're using.

17 MR. GALLI: So what you're saying is  
18 there's no additional -- any pole you're doing or  
19 any lighting you're doing is under the guideline.  
20 The existing is the part that's over the  
21 guideline?

22 MR. MINUTA: That's correct. There are  
23 only three that I'm aware of.

24 MR. HINES: There's three at 30?

25 MR. MINUTA: Three at 30. Correct.

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Thank you. Those are the existing that are --

CHAIRMAN EWASUTYN: Is 20 foot in compliance with the design guidelines?

MR. COCKS: I think the 20 foot is for like large parking lots, like a Shop Rite type parking lot. For these small site plans like this we've been using 16.

CHAIRMAN EWASUTYN: Is that possible?

MR. MINUTA: The only trouble I do have with that is I had to stretch the light -- when I designed this I had to stretch the light to meet the parking lot. If we go 16 feet, we're simply going to keep reducing the number of foot candles that we have at that level. So you'll have hot spots and dark spots. This is more of a balanced light throughout the site. The reason we went with the 20 foot is because we thought we were in compliance with those guidelines, and they're also friendly so there won't be any glare off them or things of that nature.

MS. ARENT: The guidelines -- I can read you the two pieces of guidelines that are one on top of the other so you can see how confusing it is. If you want me to read them.

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2 It's "The use of the pedestrian scale lighting  
3 should be used wherever appropriate and not  
4 exceed 10 to 15 feet in height. Ideally lighting  
5 should be similar for one development to the  
6 next, especially in the hamlet areas." Right  
7 underneath that it says, "Parking lot lighting  
8 should not exceed 20 feet in height and should  
9 not emit more than 5 foot candles to reduce glare  
10 and preserve energy." So it sounds like if  
11 you're lighting may be the building or the  
12 sidewalks you should use the 10 to 15-foot lights  
13 but parking areas you're allowed to use the 20-  
14 foot lights.

15 CHAIRMAN EWASUTYN: Would you define  
16 this area as being a hamlet?

17 MS. ARENT: That's a big -- yeah,  
18 that's a hard -- I don't know.

19 CHAIRMAN EWASUTYN: I remember, and  
20 again I'm just thinking this through, when the  
21 Town came up with their new comprehensive plan  
22 they identified, I believe, thirteen to fifteen  
23 hamlets in the Town.

24 MR. CANFIELD: Middlehope.

25 CHAIRMAN EWASUTYN: So when I think of

1  
2 hamlets, Leptondale was a hamlet, Route 300 and  
3 Lakeside Road. Coldenham was a hamlet. Where  
4 Walgreen's went in, that's a hamlet. When you say  
5 Middlehope, how broad of an area or how defined  
6 of an area is Middlehope, and do you feel, you're  
7 familiar, does this fall under that scope of it  
8 being Middlehope?

9 MR. CANFIELD: I would say yes.

10 CHAIRMAN EWASUTYN: Okay.

11 MR. CANFIELD: Being consistent with  
12 the other areas you described. I know Route 9W,  
13 that area is probably one of the oldest State  
14 roads in the Town.

15 CHAIRMAN EWASUTYN: I'm not a lighting  
16 expert. I'm not an expert on anything. I ask  
17 you if you added a few more lamp posts that were  
18 16 feet high, could you make up for not having a  
19 20 foot? Could you do that?

20 MR. MINUTA: The trouble that I -- I'll  
21 certainly try. The trouble that I'm having with  
22 it is because we have the gas line and the water  
23 line along this property, there's no place for us  
24 to sink any poles in. We have moved some parking  
25 around to be able to do that but there is that

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area influence issue here. So the majority of our lighting is coming from this side here and around here. We did bring that into the parking lot.

CHAIRMAN EWASUTYN: That's the southerly part of 9W?

MR. MINUTA: This is correct. The building is up in here. The existing building is here. So essentially we're lighting a good portion of this site from here. That's where the difficulty comes in. If I go any lower -- the higher I go the more area I can cover. The lower I go the hotter the spot.

MR. PROFACI: In my opinion, given the use of this property, the importance of having proper lighting and having that whole parking lot lighted very well trumps the 16-foot pole idea throughout. I think that you need to make -- if you can do the 16 foot everywhere and get proper lighting, that's fine. If the parking lot is not going to be completely lit everywhere, then I think that the 20-foot lighting has to be used. It's not a toy store.

MR. FOGARTY: You're going to see if

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you can do the 16. If you can, fine. If you can't, then --

MR. MINUTA: I will certainly try my best to put the 16s in. If we can do that, I will try to comply with that.

The other form of lighting that I just want to touch upon is we're also adding a bollard light, and that is at the pedestrian locations. Those are four feet tall. So they're a four-foot illuminated bollard. It's a beautiful light, and we actually have a few of them throughout the site. We have three of them that come around the corner of the wall. So that will be a very nice feature. We also have them on the entire pedestrian access through the site from the new main building to the other building on the site. There's a sidewalk area and that does have these small bollard lights following that path.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: We had previous projects where they did work it out adding more 16 foot, and it didn't matter with the gas line. They worked it one way or another and it helped out

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the parking. They made it work.

MR. HINES: There's 52 lighting fixtures proposed on this site right now.

MR. DONNELLY: At 16 feet you'd need more.

MR. HINES: A lot of them are the smaller bollard type. It's a lot of lighting.

CHAIRMAN EWASUTYN: We seemed to be able to accomplish something with extending the stonewall approximately -- was it sixty or eighty feet?

MR. MINUTA: An additional sixty feet to what we already had.

CHAIRMAN EWASUTYN: We're discussing now moving back the parking to accommodate for additional landscaping of which we'll provide for the screening along the Route 9W corridor. Karen is in agreement with some of the earlier plans that Joe had selected and is making recommendations maybe for additional Junipers or grasses, and the grasses would be left.

I think grasses in general, Karen, are cut in early March. So you would have that screening throughout the winter months.



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2           The only item that I'm unsure if we  
3 covered was the sidewalk. Is that possible? How  
4 are we with that? I don't know.

5           MR. WERSTED: The sidewalk is really --  
6 I guess it's a structural issue, but, you know,  
7 obviously there's a lot of utilities that can go  
8 in the sidewalk. The biggest, I think, issue  
9 with the sidewalk is the utility poles that are  
10 out there. You basically have to provide an area  
11 to get around the utility poles. It could be a  
12 narrower area but it could be accomplished. It  
13 really comes down to the parking and the aisle  
14 widths perhaps being narrowed down to their  
15 minimum. Kind of the other parts that come into  
16 play, we discussed the landscaping, the parking.  
17 Those items may provide for the islands, I'll  
18 call them, along Route 9W to be widened somewhat  
19 to accommodate the landscaping and the wall, but  
20 it's a combination of all of them.

21           CHAIRMAN EWASUTYN: Sort of a puzzle.  
22 Once you start putting in some more of these  
23 pieces, you can see how well it lines up.

24           Mike Donnelly, we haven't heard from  
25 you this evening. I mean it respectfully. You're

1  
2 a great thinker. You're good at tying, as we're  
3 discussing now, the pieces together, and I would  
4 appreciate hearing from you.

5 MR. DONNELLY: Well, the only piece I'm  
6 going to add, and it follows up on Jerry's  
7 comment, is on the parking. We had originally  
8 talked about limiting the occupancy based upon  
9 the parking lot size, but to now hear the parking  
10 lot fits the proposed occupancy, we're okay.

11 On the design guideline waivers that  
12 are being looked at, both parking in the front  
13 and lighting poles, you generally looked at two  
14 things. One is the consistency with the existing  
15 neighborhood or the pre-existing conditions.  
16 Secondly, appropriate substitutes to achieve the  
17 same objective.

18 For the parking in the front, the  
19 objective, as I understand it, was to try to  
20 camouflage or prevent the look of parked cars  
21 fronting the street. Obviously on a higher speed  
22 road like 9W that's most important at the two  
23 approaches. Karen suggested some type of  
24 landscaping. Even if it can't go the whole  
25 distance, the more you have of it the closer you

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get to that objective.

The lighting I think is simply an aesthetic thing to accomplish the appropriate scale of the lighting poles to the site. While Bryant gave an example of large parking lots versus small, I don't know that there's a particular cut off.

So I think to let the applicant loose to try to see what they can do both on the landscaping to block the cars and trying to find ways to get as many light poles as possible to meet that objective, as you said it's a puzzle. I think all those things need to work. If they can get it done, they've made those kind of efforts, I think you would be in a position to waive the guidelines unless you felt that there was no good faith in the attempt.

CHAIRMAN EWASUTYN: At what point -- we're in a position tonight to make a SEQRA determination. Is it necessary to waive the guidelines at this point or can we do a SEQRA determination and give the ropes to the applicant? I know Jerry Canfield said he had met earlier in the day with Mr. Minuta, that he was a

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competent individual who is well versed in codes. I think what Jerry was saying was he trusts in his professional credentials to come up with something that will work.

So that was a compliment on your behalf, Joe.

MR. MINUTA: Thank you.

CHAIRMAN EWASUTYN: Back to my original question. Can we make a SEQRA determination and then at a later point, when we move for a final motion, in that motion explain why we may be waiving certain parts of the design guidelines?

MR. DONNELLY: I believe that you can. I've given as the example before when you don't know whether -- what the environmental issues are or whether there's an approach to solving them, I would hesitate to recommend to you that you issue a negative declaration. Here I think we know what the issues are and we are just working out the details of implementing a solution we all agree to. So I think you could issue a negative declaration under those circumstances. It's the details, like we know there's enough land to create a stormwater basin to handle the

1  
2 impervious areas. You don't have to have the full  
3 design to give a negative declaration. So I  
4 think you've heard a good faith offer by the  
5 applicant to try to work out these issues and I  
6 think you could issue a negative declaration.

7 CHAIRMAN EWASUTYN: Karen, you haven't  
8 made recommendations to the Board. I know Pat  
9 Hines and Bryant Cocks did make a recommendation.

10 MR. COCKS: I didn't but I have no  
11 further environmental concerns.

12 MS. ARENT: Just the visual impact. If  
13 they work on the screening of the parking, I  
14 think a negative declaration can be issued  
15 contingent upon them satisfactorily working out  
16 the impacts, mitigation measures.

17 CHAIRMAN EWASUTYN: Ken Wersted,  
18 Traffic Consultant?

19 MR. WERSTED: Our only outstanding  
20 concerns are the number of access points and the  
21 site location.

22 CHAIRMAN EWASUTYN: Turning to Board  
23 Members. Frank Galli?

24 MR. GALLI: John, on the waiving of the  
25 guidelines, really the lighting waiver, we're in

1  
2 a gray area as far as whether it's 16, whether  
3 it's 20. I don't know if that's something -- I  
4 don't know if I would want to waive something  
5 like that. It means interpretation. The other  
6 one -- of course we're waiving other parts of the  
7 guidelines. I don't have a problem with that. A  
8 light waiver, I don't know if that's -- we want  
9 to get into a light waiver.

10 CHAIRMAN EWASUTYN: Mike Donnelly?

11 MR. DONNELLY: Again, I think it is a  
12 spectrum and a gray area. Certainly they met the  
13 20-foot limit piece for parking lots. What was  
14 intended from what Karen was reading for the  
15 pedestrian scale, which is not defined in any  
16 type of height, I think is something that's an  
17 objective. I assume it kind of means the  
18 pedestrian areas and parking lots might be taller  
19 but we have still, on smaller parking lots, been  
20 asking applicants to try to achieve the 16-foot  
21 pole height because large poles look out of place  
22 in small parking lots. Small poles look out of  
23 place in large parking lots. It's a scale issue.  
24 They don't quite make it. Here I think I'm  
25 hearing that the applicant is going to make an

1 attempt to do that but they have these severe  
2 site constraints in terms of where they can put  
3 that number of poles and have any kind of even  
4 lighting. But frankly you're not wrong, the  
5 guidelines are, first of all, not absolute and  
6 they don't mention the 16-foot level, and the  
7 only limitation on parking lots is 20 feet. If  
8 you want to be consistent with what we've been  
9 doing, we can say in the waiver, if we get to  
10 that point, that you're waiving the requirement  
11 of pedestrian lighting due to the site  
12 constraints that prohibit erecting that number of  
13 poles and stay away from the 16-foot note.

14  
15 CHAIRMAN EWASUTYN: John Ward?

16 MR. WARD: My concern, no matter what  
17 the lights are, and you said it, is there's not a  
18 glow effect shooting straight down for the  
19 parking lot. Keep it balanced in the parking lot  
20 itself because you don't need like a mall there.  
21 With the neighborhood right around the corner,  
22 you want to keep it security wise effective but  
23 for what you need in the parking lot.

24 MR. MINUTA: To answer your question on  
25 that, all of the fixtures, with some exception,

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some of which are already there, are nighttime friendly -- meets nighttime friendly criteria.

MR. WARD: Very good. I thought you said that.

MR. MINUTA: Just to make it clear on the record. Absolutely.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Do we need to issue a waiver in order to do a negative declaration?

MR. DONNELLY: No, I don't think so.

MR. PROFACI: Okay. I wouldn't issue the waiver at this point.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have no problem.

MR. FOGARTY: I have no further comments.

MR. MENNERICH: One question I have, though. On this, the downstream vortex system, is there maintenance required for those systems?

MR. HINES: Yes.

MR. MINUTA: Yes.

MR. MENNERICH: What does it consist of?

MR. ROMANO: It typically depends upon



1  
2 the use of the site and how much flow, the size  
3 of the unit. Annually. A lot of times you go in  
4 and it's very easy to maintain.

5 MR. HINES: As we move forward towards  
6 approval, the required maintenance notes that the  
7 Town now requires for the MS-4 will be added to  
8 the plans, and there will be an annual report  
9 submitted by the applicant to code enforcement  
10 that those maintenance activities are completed.  
11 The SWPPP has -- a portion of the SWPPP has the  
12 proprietary information for those.

13 CHAIRMAN EWASUTYN: That was some  
14 report, the MS-4 regulations. I was waiting to  
15 reach a point where you're going to get into the  
16 meat of the site and what the drainage areas  
17 were, and it keeps going on and on. Really, it  
18 was like never ending. I remember the old  
19 reports, there's a drainage area here, there's a  
20 drainage area here, it flows into this basin.

21 MR. HINES: That worked out to the  
22 25-year storm. Now we're down to the 90  
23 percentile storm.

24 John, what I was going to suggest,  
25 while I'm speaking here, if we're down to

1  
2 technical issues, we do have a work session  
3 scheduled for Tuesday with only one item on it. I  
4 don't know if they can address these between now  
5 and then. If the Board feels we're down to  
6 technical things --

7 CHAIRMAN EWASUTYN: I think that's a  
8 good point. Why don't we first make a two-part  
9 motion.

10 One, we'll move for a motion for a  
11 negative declaration, and I believe -- it may be  
12 too soon to set this for the January 6th calendar  
13 for a public hearing based upon the consultants'  
14 meeting. I believe our next meeting would be the  
15 20th of January. Also then I would move for a  
16 motion to set it up for the consultants' meeting  
17 of -- what's the date --

18 MR. COCKS: The 21st.

19 CHAIRMAN EWASUTYN: -- the 21st.

20 MR. HINES: Tuesday. I don't know if  
21 the applicants are ready. It's pretty soon.

22 MR. CAPPELLO: We would love to -- I  
23 think it would be worthwhile to come in and maybe  
24 talk a little more in detail about how we can  
25 shift the lot and what you'll be looking for.

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MR. HINES: That's going to be at my office actually. This room is booked.

MR. MINUTA: For that workshop meeting, I'm assuming that you're going to look to see that we've tried to accomplish, or at least maybe accomplished that. Not that we're continuing to discuss the design.

MS. ARENT: That would be great.

MR. DONNELLY: Do it tonight before you go to bed, Joe.

MR. CANFIELD: I just have one question for perhaps the owners. On the southern -- at or near the southern property line is a delapidated billboard. Is that on your property?

MR. SLIFSTEIN: I don't believe so.

MR. CANFIELD: It is not?

MR. SLIFSTEIN: It's off our property.

MR. CANFIELD: I wasn't sure where the property was but we've been trying to have something done with that sign for awhile and we can't find who owns that property.

It's definitely not on yours?

MR. SLIFSTEIN: The gentleman I see from the billboard company called me and asked me

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if he could put one on our property and I said no. If that was on our property I think he would have asked to rebuild that one.

MR. CANFIELD: Okay. Thank you.

CHAIRMAN EWASUTYN: Then I'll move for a motion to declare a negative declaration and set this for a public hearing on the 20th of January, and also to set it for a consultants' workshop meeting which is for December 20th.

MR. HINES: 21st.

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.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So

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carried.

Thank you.

MR. CAPPELLO: Thank you very much.

CHAIRMAN EWASUTYN: We probably won't see you, but have a happy holiday.

(Time noted: 8:00 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: January 11, 2011

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

----- X  
In the Matter of

MAGYAR SERVICE CENTER LOT LINE CHANGE  
(2010-25)

5465 Route 9W  
Section 9; Block 1; Lots 3 & 6  
B Zone

----- X

TWO-LOT SUBDIVISION

Date: December 16, 2010  
Time: 8:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: FRANK VALDINA

----- X

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

1  
2 MR. PROFACI: Next is Magyar Service  
3 Center Lot Line Change, 5465 Route 9W,  
4 Section 9; Block 1; Lots 3 and 6, located in a B  
5 Zone. It is a two-lot subdivision being  
6 represented by Frank Valdina.

7 MR. VALDINA: My clients, Julius and  
8 Mary Ann Magyar, own two parcels on Route 9W, one  
9 of them which contains a convenience store, truck  
10 rental business, landscape business, and they  
11 also have a propane fill station on it.

12 Their proposal is to take the common  
13 boundary line, shift it on an average of  
14 seventeen-and-a-half feet to the south, making  
15 the convenience store slightly smaller and to  
16 make the other parcel slightly larger.

17 Both lots meet all the zoning  
18 requirements pertaining to the business district.  
19 The net change is two-tenths of an acre which,  
20 like I say, this will end up being 2.1 acres. It  
21 goes from 2.35 to 2.15. The other lot on the  
22 north, which is tax lot 9-13, will go from 2.3 to  
23 2.5 acres.

24 The only comments I received have been  
25 from Pat.

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This proposed system is due for a project that we're designing, not for this project, and ended up on the plan and didn't get wiped out.

The existing septic system is in back of the building. Not impacted by this at all.

MR. HINES: As long as they're not disturbing each other.

MR. VALDINA: Right. Right now it is not proposed to change any access until we get into the site plan which is proposed for another building up on that parcel, and hopefully that will be early next year.

CHAIRMAN EWASUTYN: Do you have an idea of what might be on the other parcel?

MR. VALDINA: Yes.

CHAIRMAN EWASUTYN: Are you in a position to bring us --

MR. VALDINA: Basically they're going to put a small structure, 60 by 60. They're going to relocate the landscape and truck rental business to the new structure. The proposal is to move this propane tank onto this new site also.



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CHAIRMAN EWASUTYN: Thank you.

MR. VALDINA: There will be a new access coming out to 9W. We already touched base with DOT pertaining to that.

The building -- as you can see with the proposed septic system, the building is right about in here. It will be enclosed with a 10-foot fence for storage of the landscaping materials. The trucks will be parked back there also.

MR. HINES: The only other comment I had was the lot line is moving closer to that propane storage, and I asked Jerry -- I believe there is a code requirement for those. I know Jerry has a chart.

MR. CANFIELD: If you want to go into that.

CHAIRMAN EWASUTYN: Sure.

MR. CANFIELD: I brought a chart, Frank. It's from the fire code. The separation requirement is indicative of the size of the tank. I'm thinking that that fill station is a 500 to 2,000 gallon tank.

MR. VALDINA: Maybe 500.

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MR. CANFIELD: If it is 500, the separation is 10 feet, which you comply with. If it's over 500, the separation becomes 25 feet.

MR. VALDINA: The tank itself is approximately 25 feet from the new line. It's fenced in. The tank is within the limits of the fence.

MR. CANFIELD: Scaling it, I think Pat and I were looking at between 18 and 20.

MR. VALDINA: You must be using a different scale.

MR. CANFIELD: I have a 30 scale I thought.

MR. VALDINA: It is to 30 scale.

MR. MENNERICH: The tank is not as big as the fence.

MR. VALDINA: I have to verify the size of the tank.

MR. HINES: It looks like if it's 500 or less it's not an issue.

MR. VALDINA: To the fence is about 19 -- a little over 19 feet. The tank itself is a little over 20 feet, I would say, because the tank is several feet inside of the fence.

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MR. CANFIELD: I was suggesting to address that comment, just to submit to the Board the exact size of the tank.

MR. VALDINA: Mm'hm'.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: This is actually a corner lot, so the way the setbacks are measured just has to be revised. The site is still going to meet all setback requirements for the corner lots. You're not going to need any variances but there will now be two front yards.

Also, the front yard setback is going to be measured to the canopies, not to the building. Once those are adjusted, I don't think there's any other problems.

There aren't any contours on this. For lot line changes sometimes the Planning Board waives the requirement for the two-foot contours since there's no grading. That's another issue.

Just the addition of the certification and the surveyor's seal and signature. That was about it.

MR. VALDINA: We usually put those on

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the final. If we change it we have to keep going back and getting it. We usually wait until the final form.

MR. COCKS: Also, can you just add the existing square footage of each lot and the proposed square footage of each lot?

MR. VALDINA: It's over two acres. It's acreage, not square feet. We can do it.

MR. HINES: That's fine. It's in the bulk table. I just mentioned it to Bryant.

MR. VALDINA: The acreage is?

MR. HINES: Yes.

MR. VALDINA: Do you want square feet?

MR. COCKS: That's okay.

CHAIRMAN EWASUTYN: Acreage is fine. Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

MR. FOGARTY: I have no comment.

MR. WARD: No comment.

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2 CHAIRMAN EWASUTYN: Mike, can we set a  
3 public hearing date for the 20th of January,  
4 realizing that we do have to circulate this to  
5 the Orange County Planning Department because  
6 it's on a State road? Can we do that and then  
7 make our SEQRA determination on the night of the  
8 meeting?

9 MR. DONNELLY: You can make your SEQRA  
10 determination now and send it to them. Worst-  
11 case scenario would be if they don't have their  
12 report beforehand, we just couldn't take action,  
13 but you could schedule the hearing.

14 CHAIRMAN EWASUTYN: Is everyone fine  
15 with that?

16 MR. GALLI: Yes.

17 MR. MENNERICH: Yes.

18 MR. PROFACI: Yes.

19 MR. FOGARTY: Yes.

20 MR. WARD: Yes.

21 CHAIRMAN EWASUTYN: I'll move for a  
22 motion to declare a negative declaration for the  
23 two-lot -- number one, I'll move for a motion to  
24 grant conceptual approval for the two-lot  
25 subdivision of the Magyar Service Center, to

1  
2 declare a negative declaration for the two-lot  
3 subdivision, and to set the 20th of January 2011  
4 for a public hearing.

5 MR. FOGARTY: So moved.

6 MR. PROFACI: Second.

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

10 (No response.)

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

13 MR. GALLI: Aye.

14 MR. MENNERICH: Aye.

15 MR. PROFACI: Aye.

16 MR. FOGARTY: Aye.

17 MR. WARD: Aye.

18 CHAIRMAN EWASUTYN: Myself. So  
19 carried.

20 Frank, if you would make it a point of  
21 getting plans to Bryant Cocks and he'll circulate  
22 to the Orange County Planning Department. If  
23 possible, the Tuesday before, which would be the  
24 18th of January, if you could give us your  
25 certified mailing, deliver them to the Planning

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Board office so we have them the night of the meeting.

MR. VALDINA: Will you notify the assessor's office for the list?

CHAIRMAN EWASUTYN: Bryant Cocks will.

MR. VALDINA: Okay.

(Time noted: 8:09 p.m.)

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

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

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DATED: January 11, 2011

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

----- X

In the Matter of

DISCUSSION BY KEN WERSTED OF HIS MEMO  
REGARDING GOLDEN VISTA AND FOSTERTOWN LANDING  
PEDESTRIAN PATHWAYS

----- X

BOARD BUSINESS

Date: December 16, 2010  
Time: 8:09 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

----- X

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



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MR. PROFACI: We have two items of Board business tonight, both are discussions.

The first one is Ken Wersted discussing his memo to the DOT regarding the pedestrian crossing on Route 300 and Palmerone Farms traffic light.

CHAIRMAN EWASUTYN: Actually, there was a misprint. It wasn't the crossing. Which one do you want --

MR. WERSTED: Whatever one you want to talk about.

CHAIRMAN EWASUTYN: Which ever is more significant. You sent a letter to Wayne Booth. Did you hear back from Wayne Booth?

MR. WERSTED: I mentioned something to him today because I sent it to Cindy earlier this week. He's going to look at it and have, I think, Mark Taylor look at it as well and get back to me with either a signed letter or some type of comments.

The second letter was probably about a month ago now to the school district, and that was the one that we were trying to meet with them on. It was really a conversation that I had

1  
2 followed up with a letter that they could  
3 circulate amongst their department in the  
4 district, and that had to do with two pedestrian  
5 connections, one from Golden Vista to the Meadow  
6 Hill School, and the other one was from  
7 Fostertown Landing, which is Conifer, across  
8 Fostertown Road to the school that's there. I  
9 basically just outlined, you know, where those  
10 potential connections were, and then also  
11 basically what was involved.

12 One would simply be a connection from  
13 Golden Vista. It could be a wood chip path or  
14 something through the woods to connect to the  
15 athletic field. From there it basically opens up  
16 your walking area, not only to Golden Vista but  
17 through an emergency access connected to Meadow  
18 Winds where there's another probably 200 to 300  
19 units of residential in there.

20 In fact, on the north side of the  
21 school there's a cul-de-sac with probably a  
22 couple dozen homes, and those houses are only  
23 maybe 300 yards away from the school. But short  
24 of cutting through someone else's property to get  
25 to the school, they'd have to walk, ride their

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2 bike or be driven about two miles all the way  
3 around the different blocks to be able to get to  
4 the school. Otherwise, with these connections,  
5 you could walk or ride a bicycle through these  
6 more local, lower speed, lower volume streets and  
7 get access into the school.

8 Over at Fostertown Landing it's  
9 basically crossing the street to the point where  
10 I don't think you would be letting your  
11 kindergarten kids cross Fostertown on their own.  
12 Rather than put your kids in the car and drive  
13 across the street to use the playground or the  
14 athletic field, you could simply, just with an  
15 adult, walk there and enjoy the community.

16 The point was really to bring those  
17 issues to the district's awareness and then  
18 basically put the ball in their court to solicit  
19 comments from them to see if they would be open  
20 to having the Planning Board pursue those  
21 connections with the applicants or whether they  
22 have some concerns about it.

23 CHAIRMAN EWASUTYN: Tom, what would you  
24 sense with that in this case?

25 MR. FOGARTY: I'm sure what they would

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do is, first of all, probably discuss it amongst the board, but they would probably look at the legal end of it, too. They would look at who is going to maintain the paths and things like that.

Have you heard anything back from Ralph?

MR. WERSTED: I haven't.

MR. FOGARTY: You haven't heard anything?

MR. WERSTED: No.

MR. FOGARTY: I think if you haven't heard anything by the next meeting, either I can call him or you can call him. Sometimes you have to --

MR. GALLI: I talked to him today actually. I would have mentioned something. I might see him tomorrow night.

CHAIRMAN EWASUTYN: Any comments from Board Members?

(No response.)

MR. PROFACI: Thank you, Ken.

(Time noted: 8:14 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: January 11, 2011

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

----- X  
In the Matter of

DISCUSSION BY BRYANT COCKS OF HIS MEMO  
TO THE TOWN BOARD REGARDING RESIDENTIAL  
LOT AREA CALCULATION LOCAL LAW

----- X

BOARD BUSINESS

Date: December 16, 2010  
Time: 8:14 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

----- X

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

1  
2 MR. PROFACI: The next item is  
3 Bryant Cocks discussing his memo to the Town  
4 Board regarding the residential lot area  
5 calculation local law.

6 MR. COCKS: This request from the Town  
7 Board came in two parts. The first time we  
8 estimated the list of all the projects that would  
9 be affected by the new local law which had two  
10 parts to it. One was for residential site plans,  
11 to deduct the steep slopes and wetlands to get  
12 the lot area, to get density. The other part was  
13 in single lot subdivisions, the calculation of  
14 buildable area. That one affects projects  
15 because in the buildable area you can't have  
16 steep slopes or wetlands, and you also have to  
17 have a fifty-foot dimension in each direction  
18 which means there's no more triangular pieces or  
19 semi-circular pieces in the buildable area, it  
20 has to be a square.

21 I took a look and gave them a list and  
22 then they came back and asked for an analysis of  
23 how many lots each of these projects would lose.  
24 I started taking a look myself and then I  
25 eventually figured it would be a lot easier to

1  
2 talk this through with the engineer. I went  
3 through and made a list of all the projects I had  
4 on the list and a couple more that the engineers  
5 came up with that were smaller projects that I  
6 didn't look at that would be affected.

7           Now I have a list of a bunch of  
8 projects that will be affected. I guess I'll  
9 just go through them real quick. Gardner Ridge  
10 is going to be the most affected out of all of  
11 them. That was the 121 senior units right across  
12 from Maurice Lane on Gardnertown. That's pretty  
13 much all steep slopes. That's going to be  
14 reduced from 121 units to about 50. So that was  
15 the project that was the most impacted. When I  
16 talked to Lou Powell about it he said if that's  
17 the case and he wasn't grandfathered, that it  
18 would pretty much just be scrapped because they  
19 wouldn't be able to get enough units to make it  
20 financially feasible.

21           Golden Vista, I talked to Kirk Rother.  
22 At the beginning he actually said it would be a  
23 loss of four lots.

24           The Polo Club was okay.

25           Driscoll was okay.



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2 Summer Kim, I talked to Tom DePuy, that  
3 would go from 26 to 22 because of the buildable  
4 area requirements.

5 R&T Orchards, it's 20 lots. Andrew  
6 Featherston said he doesn't think they're ever  
7 coming back. He tried getting a hold of the  
8 applicant and they said they don't think they're  
9 going forward with it. He said probably a few  
10 lots would be lost, not too many.

11 Zazon, I talked to Travis and he said  
12 the buildable area requirement wouldn't affect  
13 the lots.

14 Elm Farm would go from 54 to around 40,  
15 maybe 42 because of the buildable area  
16 requirement.

17 Three Ken Lytle projects. Tarbin would  
18 go from 20 to 16.

19 Balmville Estates would go from 7 to 4.

20 Hammond would go from 13 to 12. That  
21 wasn't that bad.

22 MR. PROFACI: Double the price of the  
23 lots.

24 MR. COCKS: Woodfield Manor wouldn't  
25 lose any lots. That's 34 lots.

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Taylor subdivision, which is part of the whole Summer Kim area, would just lose one. It would go from 14 to 13.

There's a couple projects that were pretty majorly affected. Most of them were the site plans.

CHAIRMAN EWASUTYN: And you're revising your list to give to the Town Board. You have done that already?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: Can we have a copy of that for our files?

MR. COCKS: I sent it over to you but I'll resend it.

CHAIRMAN EWASUTYN: I never received it.

MR. COCKS: Okay.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: No additional.

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

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

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

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DATED: January 11, 2011

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

----- X  
In the Matter of

DISCUSSION BY CHAIRMAN EWASUTYN  
REGARDING ADRIAN GODDARD AND  
THE SHOPPES AT UNION

----- X

BOARD BUSINESS

Date: December 16, 2010  
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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

----- X

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

1  
2 CHAIRMAN EWASUTYN: There's two things  
3 I'd like to bring up tonight. One is I received  
4 a call yesterday, and I returned it, and that was  
5 to I believe a Noel, and I forget his last name.  
6 He's with Staples. I called him last night at the  
7 end of the evening, it was around 7:30. The  
8 conversation pretty much went like this. To  
9 follow up to your consultants' meeting, he asked  
10 if Adrian Goddard had been before us recently. I  
11 said to him that he's scheduled for a  
12 consultants' work session next week, and he kind  
13 of asked me if -- what he was really saying is  
14 where is this going. I said the consultants'  
15 work session is meant to dot the Is and cross the  
16 Ts, and that I would believe that sometime, maybe  
17 our second meeting in January or our first  
18 meeting of February, that we would be approving  
19 the amended site plan and that he's discussing  
20 phasing, that we work favorably with Adrian  
21 Goddard and we look favorably on the project.

22 He went on to say to me it's very --  
23 well, two things he was saying. He was hoping to  
24 break ground this spring. He believes it will  
25 take five months to build his project and he was

1  
2 -- it was very important to him that the Shoppes  
3 at Union Square do all the improvements to the  
4 project and just leave the one or two vacant pad  
5 sites vacant because what he wants to be able to  
6 do is have pedestrian traffic come from both  
7 points of access and he didn't want to be  
8 encumbered by construction equipment, dust on  
9 people's cars and so on, which seemed reasonable.  
10 With that I left a message for Arian Goddard  
11 saying that I spoke to the individual. Adrian  
12 Goddard called me earlier this morning, and at  
13 first he was very huffed over the whole thing.  
14 He felt it really inappropriate for Noel to have  
15 called. After he settled down, in a polite way,  
16 he went on to say two things. One -- R&T  
17 Orchards were in my thoughts on that. He said  
18 it's such a fragile market right now with people  
19 building that they have to know what they're  
20 doing because they just -- they can't deal with  
21 uncertainty. In the same breath he's saying his  
22 uncle-in-law, who really bought the property  
23 initially, paid too much for the property. So I  
24 mean I think that's -- that's the whole story.

25 (Time noted: 8:20 p.m.)

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

----- X  
In the Matter of

DISCUSSION BY CHAIRMAN EWASUTYN  
REGARDING MOUNTAIN LAKE SUBDIVISION

----- X

BOARD BUSINESS

Date: December 16, 2010  
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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

----- X

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



1  
2 CHAIRMAN EWASUTYN: The other  
3 interesting thing that came up recently, if  
4 you recall we looked at -- I'll have Karen  
5 follow up on it. We recently did a site  
6 inspection of Mountain Lake Subdivision. I  
7 received an e-mail from Dawn Kalinsky who  
8 represents the applicant, and in the e-mail  
9 she's saying she wants to come back before  
10 the Planning Board for an ARB approval and  
11 what do you need, so on and so forth. So I  
12 did the logical thing, I said Karen -- called  
13 up Karen and said would you speak to Dawn and  
14 see if you can piece this together. Karen  
15 spoke to her.

16 Go ahead.

17 MS. ARENT: She mentioned how the owner  
18 wasn't crazy about the twelve choices of earth  
19 tone colors that he had to choose from in order  
20 to satisfy the SEQRA requirements to mitigate  
21 visual impacts from the lake of the new houses.  
22 That was one issue.

23 The second issue was they're making the  
24 houses smaller. If they were just doing that, I  
25 don't think it's a big deal with you.

1  
2 After talking with John, we had a lot  
3 of people here from the lake very concerned about  
4 visual impact, and that was one of the reasons we  
5 recommended to mitigate the views of these  
6 houses.

7 CHAIRMAN EWASUTYN: So my question,  
8 after Karen coming back with her information;  
9 Mike, is it an ARB approval? Are we talking  
10 about a -- I mean we're talking about a SEQRA  
11 issue here even more so than ARB because a  
12 mitigation measure was a visual impact. You  
13 know, I think we're opening up a Pandora's box.  
14 I think we have to have a public hearing on it.  
15 I seek your advice.

16 MR. DONNELLY: Well I think we talked  
17 about a few things. One, with the existing trees,  
18 that also helped, so it may -- if they want to  
19 change colors, maybe we have to revisit the site  
20 plan and see if there's another way to provide  
21 another mitigation measure. It's certainly a  
22 SEQRA issue where we did a conditioned negative  
23 declaration, or how we accomplished that I don't  
24 remember. While you need not hold a hearing  
25 unless you think the public can provide you with

1  
2 new information, I think in fairness to the  
3 public, often where you had that kind of give and  
4 take and they felt secure when they walked out,  
5 you'd avoid the kind of flack and complaints you  
6 had later if you went and changed it without  
7 telling them.

8 CHAIRMAN EWASUTYN: Orange Lake Civic  
9 Association has always said they would like to --

10 MR. DONNELLY: They've always  
11 participated.

12 MR. GALLI: They're making the houses  
13 smaller?

14 MS. ARENT: That's great.

15 MR. GALLI: They have to do more  
16 screening.

17 MR. MENNERICH: Do they want flashier  
18 colors? They don't want the earth tones?

19 MS. ARENT: He just wasn't crazy he  
20 only had twelve colors to choose from.

21 MR. GALLI: Twelve is quite a bit.

22 MS. ARENT: Twelve shades of beige and  
23 gray.

24 MR. DONNELLY: John said if they came  
25 in with the colors they were proposing it may not

1  
2 be too big of an issue if they were of a similar  
3 palette, in which case you may feel comfortable  
4 you don't need a new hearing. If they want  
5 purples and magentas and siennas --

6 CHAIRMAN EWASUTYN: Is it an amended  
7 ARB? Is it an amended subdivision approval?

8 MR. DONNELLY: If we're just -- I think  
9 the houses they can do without us; right? I  
10 don't think we approved a particular footprint  
11 size.

12 MS. ARENT: No. We left it to the  
13 building department.

14 MR. DONNELLY: I would think that if  
15 you're talking about just a change of colors as  
16 within the same general palette as before, that's  
17 an ARB change you can live with. If the colors  
18 they propose don't accomplish the same mitigation  
19 measures as those, I think you need to revisit  
20 the site plan. You might need another mitigation  
21 measure.

22 CHAIRMAN EWASUTYN: The question to you  
23 is it's a new owner now. It's no longer the same  
24 owner. I would assume we get an amended  
25 application with the new owner.

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MR. DONNELLY: I think you --

CHAIRMAN EWASUTYN: I talked to Mark about this and this is one of these things. We talked about tonight eventually the Town Board has to come to certain decisions. We did that recently with a project that was a new owner, and I forget which one that was.

MR. DONNELLY: Certainly if he's going to pursue this, the answer is I think he has to file an amended application. I don't think it would be off base.

MR. HINES: Orchard Hills.

CHAIRMAN EWASUTYN: Orchard Hills.  
Thank you. Right.

MR. DONNELLY: If a modest fee and consultant escrow was put up for him to appear before the Board to discuss the issue to get some direction, if that was a starting point. In other words, if the guy hears that you wouldn't let him change any of these without revisiting the site plan, he may live with the colors, and for that he probably shouldn't have to file a whole new application and pay a whole new fee just to hear that bad news. By the same token, he

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shouldn't necessarily be able to come without paying something and covering at least review by Karen of what's proposed so you can see it.

CHAIRMAN EWASUTYN: Besides the review by you, I think eventually there would be a resolution associated with it.

MR. DONNELLY: Certainly if after that meeting he feels now I want to apply for it, then I think he should fill out an application to go forward. I think there should be some method of allowing him to come to test the waters to see whether or not he wants to pursue it.

CHAIRMAN EWASUTYN: Karen, your recommendations?

What would the Board like to see when we schedule this for January 20th? What would the Board like to have as far as samples and renderings and --

MS. ARENT: He should bring the colors that were approved and the colors he's proposing, the actual color chips, as well as he can bring -- it sounds like they have the renderings of the houses. If they already have them, he should bring them. It's tricky because in the site plan

1  
2 you're trying to save more trees but there's no  
3 way to know that they're really going to do that.  
4 I don't know that we need site plan. Should they  
5 bring of line of sight? No. We know there's a  
6 visual impact and this is what we're doing to  
7 mitigate it. So I think --

8 CHAIRMAN EWASUTYN: Let me say this:  
9 Why not bring the original line-of-sight drawings  
10 for the benefit of Tom Fogarty, for the benefit  
11 of John Ward, for the benefit of myself.

12 MS. ARENT: Absolutely. They should  
13 present that.

14 When you look at it, Frank, be aware  
15 that they graded really close to a lot of the  
16 trees and a lot of the trees they were saying are  
17 going to be saved have to come down because they  
18 graded three to four feet away from the trunk of  
19 the tree.

20 MR. GALLI: Right now there's no leaves  
21 and stuff.

22 MS. ARENT: It's a good time to look  
23 that way.

24 MR. GALLI: Personally I would probably  
25 take a drive up there and take a ride through --

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MS. ARENT: A lot of the trees along the road have to be taken down.

MR. PROFACI: Where is the best place to see that from?

MR. GALLI: Right near Lakeview House.

CHAIRMAN EWASUTYN: We'll ask for samples -- Karen, we'll ask for the original chip samples, the proposed chip samples, we'll ask them to bring the line-of-sight drawings that they have and we'll go from there.

MS. ARENT: And renderings if they're available.

CHAIRMAN EWASUTYN: Okay.

Anything else?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of the 16th of December.

I wish you all a merry and happy Christmas and happy new year.

For the end of this month you'll have in your boxes the reorganization outline for the meeting. If we can, if we want to try to get together, a few of us, to go to Mountain Lake



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BOARD BUSINESS

subdivision, let's try that. Thank you all.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 8:30 p.m.)

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