

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

BOTRAC PROPERTIES
(2011-21)

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

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: December 1, 2011
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL
----- X
MICHELLE L. CONERO
10 Westview Drive
Walkkill, New York 12589
(845)895-3018

MICHELLE L. CONERO - (845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

3

Newburgh, Code Compliance Supervisor.

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

MR. COCKS: Bryant Cocks, Planning Consultant.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

MR. BROWNE: Thank you. At this time I'll turn the meeting over to Joe Profaci.

MR. PROFACI: Please rise.
(Pledge of Allegiance.)

MR. PROFACI: If you would please turn off your cell phone or electronic devices.

MR. BROWNE: Thank you. The first item of business we have on this evening's agenda is a public hearing. This one was scheduled previously.

I'd ask Mike Donnelly to explain briefly the purpose of the public hearing and where we are with this project and where we left off the last time.

MR. DONNELLY: The Planning Board is required to hold a public hearing on all subdivision proposals, and this is a subdivision

MICHELLE L. CONERO - (845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

2

MR. BROWNE: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of December 1, 2011.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Here.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on the business that we have before us, including SEQRA determinations as well as code and planning details. I'll ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of

MICHELLE L. CONERO - (845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

4

proposal. The public hearing in this matter was actually started on November 17th and continued to tonight's date because the notice was not published in both of the Town's official newspapers. The purpose of the hearing is for you, the members of the public who wish to be heard, to bring to the attention of the Planning Board issues or concerns that you may have regarding the project that the Planning Board may not be aware of or that the consultants, who make recommendations to the Planning Board, may not have realized themselves. After the applicant gives a presentation, the Chairman will ask those who wish to speak to raise your hand. You may step forward after you're called. Please tell us your name, spell it for the Stenographer so we get it down properly, and tell us where you live in relation to the project so that we can understand the perspective you bring to bear. If you have questions, direct them to the Planning Board and the Chairman will ask either the applicant's representative or one of the Town's consultants to answer your questions.

MR. BROWNE: Thank you.

MICHELLE L. CONERO - (845)895-3018

1 5
2 Again, the first item of business is a
3 public hearing. It's known as the Botrac
4 Properties, project number 2011-21. This is a
5 two-lot subdivision being presented by Lawrence
6 Marshall. My understanding is that the notices
7 have been properly executed at this point. Thank
8 you.
9 CHAIRMAN EWASUTYN: All right.
10 MR. MARSHALL: This is a proposed two-
11 lot subdivision on the westerly side of Orchard
12 Drive located in the AR zoning district. The
13 existing parcel is a 2.9 acre parcel which we're
14 proposing to subdivide into two lots for single-
15 family residential dwellings. The two lots are
16 1. -- approximately 1.6 acres in size and 1.3
17 acres in size.
18 Both lots will be served by private
19 wells and septic systems.
20 Lot 1 will utilize the existing
21 driveway that previously served a residence that
22 is no longer on this parcel. Lot 2 will have a
23 new driveway which has been reviewed and approved
24 by the Town of Newburgh Highway Department.
25 CHAIRMAN EWASUTYN: Thank you. As Mike
MICHELLE L. CONERO - (845)895-3018

1 6
2 Donnelly said earlier, anyone here who has any
3 questions, please raise your hand, give your name
4 and your address.
5 The gentleman in the back.
6 MR. COROLLA: Just I came here two
7 weeks ago and I guess you guys -- the engineer,
8 you guys were supposed to go out and look at the
9 property. I just came here to hear what the
10 results were. I gave -- I said my peace the last
11 time I was here.
12 CHAIRMAN EWASUTYN: Your name? Did you
13 give your name?
14 MR. COROLLA: No.
15 CHAIRMAN EWASUTYN: Even though you
16 were here, can you give your name one more time?
17 MR. COROLLA: Yeah. It's James Corolla
18 and it's 754 Orchard Drive.
19 CHAIRMAN EWASUTYN: Pat, have you had a
20 chance to review the project?
21 MR. HINES: I did not get out in the
22 field and review it but I did take the
23 opportunity to check my in-house GIS system with
24 the aerial photos and the topography. I did
25 confirm that the location of your house is lower
MICHELLE L. CONERO - (845)895-3018

1 7
2 than -- you don't directly receive runoff from
3 these parcels, and this parcel is tributary to
4 that very large wetland area to the rear of the
5 site. I did a quick look at the watershed.
6 There's over a 10 square mile watershed through
7 that wetland area, so the roof area and the
8 driveway pavement in a watershed of that size,
9 it's really insignificant, although I do see that
10 your parcel is low and may be impacted when that
11 water comes up. This doesn't meet the threshold
12 for a drainage analysis for the disturbance of
13 this much property on that big of a site. I do
14 see where you have concerns with the wetland, the
15 large wetland area behind --
16 MR. COROLLA: What about like health
17 issues, like you're putting two septic systems in
18 front of my house or to the right of my house?
19 MR. HINES: It's up a little bit.
20 MR. COROLLA: To the right of my house
21 and I have a well back there. I mean where does
22 that water go?
23 MR. HINES: The Public Health Law,
24 Appendix 75-A, is what guides the design of
25 subsurface sanitary septic systems. We reviewed
MICHELLE L. CONERO - (845)895-3018

1 8
2 the plans that were proposed by the applicant and
3 found that they do comply with the Public Health
4 Law. The regulations require a 200 foot
5 separation distance between this septic system
6 and any down gradient well and 100 foot
7 separation from any up gradient well. They've
8 met those standards by far on the site. Your
9 well is well away from any of those separation
10 distances. The nearest well to the septic system
11 on lot 2 is about 210 feet. So with meeting
12 those standards, there's not a lot we can do.
13 Those laws are promulgated to protect wells.
14 MR. COROLLA: I'm just saying if you
15 look at the way the land rolls, it actually -- it
16 comes down and it's like my house is here. Where
17 their properties are, they roll into my property
18 and go to the wetlands. Some of my property is
19 level to the wetlands behind me.
20 MR. HINES: Correct.
21 MR. COROLLA: Where does that water go?
22 It has to go back.
23 MR. HINES: It's going to the wetland
24 area. The wetland areas are so large, the runoff
25 from this site is easily attenuated.
MICHELLE L. CONERO - (845)895-3018

1 9
2 MR. COROLLA: I'm not just talking
3 about the water table. I've seen water sitting
4 there coming through the ground. Like not just
5 runoff water. I've been -- I went through a
6 hurricane, a major melt last winter, a bad
7 winter. I seen my footing drains, a brand new
8 home, the footing drains running for a week or
9 two. I mean the water table is high. What
10 you're doing is you're creating more runoff going
11 between my property and Steve's. He's my
12 neighbor. I mean we're here because we have
13 concerns.
14 MR. HINES: Actually, the majority of
15 water from this site, if you're Mr. Crineri,
16 that's the direction. This is immediately down
17 gradient. You have a couple of low spots that
18 pond in your front yard based on the topography.
19 MR. COROLLA: Yeah.
20 MR. HINES: The applicant's engineer,
21 and I can let Mr. Marshall address this a little
22 more, has done the soils testing, the deep
23 testing and percolation tests that are required,
24 and there is adequate soil on the site to support
25 the septic systems in compliance with the Public
MICHELLE L. CONERO - (845)895-3018

1 10
2 Health Law.
3 MR. COROLLA: That's fine for now.
4 What happens in ten years or twenty years? I
5 can't control who buys these houses and takes
6 care of the septic.
7 MR. HINES: Part of the requirements of
8 that law is that there's a fifty-percent
9 expansion area should something fail. So they
10 have to prove out the expansion area also. It is
11 difficult. There is no requirement that people
12 properly maintain their system on individual
13 homes. It's a homeowner's responsibility. There
14 is routine maintenance needed to these septic
15 systems. The Town has done some educational
16 materials through their MS-4 plan regarding
17 septic systems. Several years ago they did a
18 mailing to the people in the outer areas that
19 have septic systems. It is an education issue.
20 This plan complies with the regulations that it
21 needs to. This Board, being an administrative
22 review board, can't, you know, deny it based on
23 any arbitrary facts. It proves out based on the
24 zoning and the soils to meet the requirements.
25 MR. COROLLA: I just don't agree.
MICHELLE L. CONERO - (845)895-3018

1 11
2 MR. HINES: I understand your concern.
3 MR. COROLLA: I mean there's houses on
4 the right-hand side of that road that are on a
5 mountain, on a hill. That water comes down. Now
6 it's going to go to their property. Now it's
7 going to all trickle down to mine. Just to me
8 it's like the water table there is ridiculously
9 high. The way I look at it, I'll make it -- I'll
10 put the house up for sale. I'll make it the next
11 person's problem. That's going to be --
12 CHAIRMAN EWASUTYN: Additional
13 comments? Name and address, please.
14 MR. CRINERI: My name is Steve Crineri,
15 I live at 766 Orchard. It's the parcel directly
16 behind there. You said that -- I have a couple
17 concerns. Obviously Jaime has concerns about
18 runoff. It is tributary to my property. Does my
19 soil have enough perc to support that? I do have
20 a few wet spots here and there, and, you know,
21 they don't dry up until August.
22 MR. HINES: I'm looking at your lot.
23 It was approved before this Board in 2007. The
24 same regulations applied for your lot that these
25 lots are having to meet right now. The same soil
MICHELLE L. CONERO - (845)895-3018

1 12
2 testing and percolation testing would have been
3 performed in 2007.
4 MR. CRINERI: Okay. All right.
5 MR. HINES: The separation distances
6 are there. Your well is shown on the plans. It's
7 greater than a 200-foot separation distance.
8 MR. CRINERI: Mine is the 210 foot?
9 MR. HINES: Just about that.
10 MR. CRINERI: And my other concern is
11 just I'm concerned about this affecting my
12 property value. When I bought this property I --
13 you know, I paid a lot of money for it in
14 comparison to the houses that were sold after
15 mine. They probably sold five or six after and,
16 you know, a big selling point to me was the idea
17 that I'm buying a piece of property, it's a flag
18 lot, it's back in the back, I'm off of the road,
19 and I was assured that there was going to be a
20 house built, it was already an engineered lot, in
21 front of me and the house would be 200 foot to my
22 left if I looked out my front door. I would
23 never have anybody in front of me. That's part
24 of the reason why I did pay a premium for it. I
25 did some upgrades. That's part of the cost of my
MICHELLE L. CONERO - (845)895-3018

1 13
2 house. I also bought privacy, and, you know, I
3 guess that's in jeopardy now. When you build and
4 sell houses, when you're at the closing table,
5 it's a business transaction, but the people
6 buying them, you're buying a lifestyle for your
7 family. I've got two -- my wife and I are
8 planning on raising our two daughters here. Now
9 we're not so sure. If these two houses -- if
10 there were two houses, one of which was right up
11 against my driveway, when I came to look at the
12 property, I probably wouldn't have bought it, you
13 know. So that's another concern of mine.
14 CHAIRMAN EWASUTYN: Mike, do you want
15 to speak on behalf of value?
16 MR. DONNELLY: Construction on
17 adjoining properties often has an impact on
18 property values. Sometimes a particular zoning
19 district or a particular type of construction
20 might enhance somebody's property value. Another
21 time they diminish the property values. These
22 properties have long been zoned for residential
23 use, and the code allows them. I couldn't
24 comment on whether that decreases or increases
25 your property value, but that type of change in
MICHELLE L. CONERO - (845)895-3018

1 14
2 property value is not a concern that the Planning
3 Board is allowed to factor in.
4 MR. CRINERI: Okay.
5 MR. DONNELLY: Some types of large
6 scale economic impacts on a larger scale or
7 municipal wide scale are, at times, appropriate
8 for review by a planning board, but not property
9 value impacts to an immediately adjoining
10 property.
11 MR. CRINERI: That's kind of
12 unfortunate. All right.
13 MR. HINES: I also was going to add as
14 far as the septic systems go, the design engineer
15 for the septic system, the Town of Newburgh has
16 an additional requirement that they have to
17 certify that they are constructed in compliance
18 with the plans. So there is a little extra
19 checks and balances in the Town of Newburgh that
20 some municipalities don't require.
21 MR. COROLLA: When you have that much
22 rain and, you know, you have a house that's on a
23 hill, okay, you're telling me that there's no way
24 that those leach fields are going to saturate?
25 That's pretty much what you're telling me. It's
MICHELLE L. CONERO - (845)895-3018

1 15
2 like well it's over there, it's not a big deal,
3 so who cares. That's what I'm getting out of
4 this.
5 MR. HINES: A properly designed leach
6 field will function during storm events. That's
7 the reason why you do soil testing. The soil
8 tests, the deep tests where they excavate down
9 are performed to identify issues with the
10 groundwater table to make sure there needs to be
11 four foot of usable soil. Even seasonal
12 fluctuations in groundwater are evident in those
13 deep tests through the color of the soil. They
14 have what's called modeling or some gray colors
15 caused by chemical reactions when the soil is
16 saturated, and that's why the deep tests are
17 performed, to make sure there is adequate soil.
18 Similar tests were done on your lots in 2007, or
19 previous to that before they were approved.
20 MR. COROLLA: I'm just -- my biggest
21 thing is, you know, just like in Colden Park.
22 Every house in that development has a sump pump
23 in it. They're just on a high water table. I
24 bought this house thinking I'm not going to have
25 to deal with that. I work for a living and, you
MICHELLE L. CONERO - (845)895-3018

1 16
2 know, I was able to do the right thing and get
3 where I had to get to get what I have and to get
4 away from this, and now --
5 MR. HINES: You have footing drains to
6 daylight in the new house. You have that drainage
7 ability there.
8 MR. COROLLA: You know, I'm just
9 concerned. I've seen how much water comes down
10 my property, and it's just like I just can't
11 believe all that surface water is going to go.
12 And then there's a lot in front of my house.
13 That lot is -- they don't own it yet so that
14 property is like this. I'm just like, you know,
15 where is all this water going.
16 MR. HINES: That's got the barns on it?
17 MR. COROLLA: Exactly in front of me.
18 You know, I'm just like concerned. I'm not
19 trying to stop them from doing anything. I just
20 want to make sure that it's going to like meet
21 health codes. I've got a well there, I've -- I'm
22 just like worried about --
23 MR. HINES: The role my office plays
24 for the Planning Board is to check those issues
25 with the septic systems, the designs, the deep
MICHELLE L. CONERO - (845)895-3018

1 17
2 tests, the perc tests. They've been able to
3 prove these lots out to meet the code.
4 MR. COROLLA: Like there's a brand new
5 duplex that just got built that they did right to
6 the left of my property. That thing -- that is
7 like, yes, it's on their property, but I'm just
8 waiting for down the road -- you know, I'm not
9 saying it's his fault or anybody's fault. I see
10 these fields are going to keep saturating, and
11 everything comes down into my property. You
12 know, the neighbor next to me to the left, you
13 know, there's standing water I would say eighty
14 percent of the time between my property and his.
15 All the time. It's just like the wetlands,
16 because we had so much water, it feels like it
17 just keeps creeping up, you know. You look at my
18 survey, you can see where the buffer zone is, and
19 it's not really that far off my house where that
20 land is, you know, starting to come back. Like
21 the wetlands are coming towards me. That's my
22 only concern is like it's wet back there. You
23 know, it's a swamp. It's nasty. You get --
24 MR. HINES: It's a very large swamp.
25 MR. COROLLA: You get hot summer nights
MICHELLE L. CONERO - (845)895-3018

1 18
2 and you smell the swamp. I thought it was my
3 sewer. It's nasty water, you know. It's just
4 like they don't -- every one above me don't care
5 because it just goes by them. It's just like
6 sitting. You know, that's my concern.
7 CHAIRMAN EWASUTYN: Jerry, you had
8 something you wanted to say. Jerry Canfield, Code
9 Compliance.
10 MR. CANFIELD: Just to elaborate on
11 what Pat was saying. You had mentioned about ten
12 years down the road. There is a requirement also
13 in the Health Law and in the Town of Newburgh
14 that the septic systems remain functional. The
15 Town of Newburgh Building Department and the
16 Health Department has jurisdiction over that. So
17 not that it gives you any comfort but just to
18 make you aware there is a requirement that the
19 systems function as designed, and that's what the
20 design professional is displaying, that the
21 systems have been designed to the applicable
22 codes. It's the Building Department's
23 responsibility to see that they function as per
24 the design.
25 MR. CRINERI: How is that enforced?
MICHELLE L. CONERO - (845)895-3018

1 19
2 CHAIRMAN EWASUTYN: Excuse me. If you
3 do speak, because James has been kind of
4 speaking, you should reintroduce yourself. Thank
5 you.
6 MR. CRINERI: I'm Steve Crineri,
7 directly behind. How is that enforced, the
8 separate -- making sure that everything works
9 properly?
10 MR. CANFIELD: You asked how is it
11 enforced?
12 MR. CRINERI: How is it enforced?
13 MR. CANFIELD: Usually a complaint is
14 lodged, or once the Building Department is made
15 aware of the issue, they'll go out, they'll do a
16 site inspection. There's a couple different
17 tests. First you have to ascertain if in fact a
18 system is failing, and then which system it is
19 that's failing. That can be done through visual
20 tests, dye tests where you put tablets in a
21 fixture in the house, such as a sink or a toilet.
22 After a period of time the color dye will surface
23 and then you'll know exactly where it's coming
24 from. Ultimately we look for voluntary
25 compliance on the owner's behalf. If that
MICHELLE L. CONERO - (845)895-3018

1 20
2 doesn't work, we do have the ability to issue
3 court -- local court appearance tickets. If we
4 need to, we go that far to have court assistance
5 in directing the owners to comply with the
6 ordinances.
7 MR. CRINERI: The reason I'm asking --
8 MR. CANFIELD: And the Health
9 Department as well.
10 MR. CRINERI: I'm in the septic
11 business. It's a family business. We do a lot
12 of pumping in the Town of Newburgh.
13 MR. CANFIELD: I'm sorry, I can't hear
14 you.
15 MR. CRINERI: I said it's a family
16 business and we do a lot of pumping in the Town
17 of Newburgh and I've never heard of this before.
18 I've never gotten a call. I've seen plenty of
19 failing systems. I've referred excavators all
20 the time. I've never gotten a call from, you
21 know, somebody being forced to pump it. That's
22 why I'm asking. Most people do call when their
23 system is failing because they're backing up into
24 their house. A system can run over on the ground
25 for years before -- you know, before it actually
MICHELLE L. CONERO - (845)895-3018

1 21
 2 becomes an issue or backs up into the house.
 3 CHAIRMAN EWASUTYN: Okay. Any
 4 additional questions or comments from the public?
 5 (No response.)
 6 CHAIRMAN EWASUTYN: Final comments from
 7 Board Members. Frank Galli?
 8 MR. GALLI: No additional.
 9 MR. BROWNE: No.
 10 MR. MENNERICH: No questions.
 11 MR. PROFACI: No.
 12 MR. FOGARTY: I have no comment.
 13 MR. WARD: No.
 14 CHAIRMAN EWASUTYN: At this point I'll
 15 turn to our consultants for their final comments.
 16 Jerry Canfield, Code Compliance?
 17 MR. CANFIELD: I have nothing
 18 additional.
 19 CHAIRMAN EWASUTYN: Pat Hines, Drainage
 20 Consultant?
 21 MR. HINES: We have no outstanding
 22 comments.
 23 CHAIRMAN EWASUTYN: Bryant Cocks,
 24 Planning Consultant?
 25 MR. COCKS: My only outstanding comment
 MICHELLE L. CONERO - (845)895-3018

1 22
 2 was regarding the residential lot area, and I did
 3 get a revised plan showing that. Larry, you
 4 mentioned that the highway superintendent signed
 5 off on the new lot -- on the driveway location
 6 for the new lot?
 7 MR. MARSHALL: I believe so. You
 8 didn't -- I thought that was part of the last
 9 meeting. I thought you had received -- maybe I'm
 10 mistaken.
 11 MR. COCKS: I don't think I have that
 12 letter. Usually those are conditions of -- one
 13 of the conditions of approval, but I'll check. I
 14 don't think I have it.
 15 MR. MARSHALL: If not, I apologize for
 16 making that statement incorrectly. Certainly we
 17 provided the stake for the highway department. I
 18 know that Mr. Benedict was out for quite some
 19 time and they were trying to get somebody else to
 20 take a look at it.
 21 CHAIRMAN EWASUTYN: We haven't received
 22 a sign-off letter in the office to the best of my
 23 knowledge.
 24 MR. MARSHALL: I'll follow up with that
 25 to make sure it gets reviewed.
 MICHELLE L. CONERO - (845)895-3018

1 23
 2 CHAIRMAN EWASUTYN: At this point I'll
 3 move for a motion from the Board to close the
 4 public hearing on the two-lot subdivision for the
 5 lands of Botrac.
 6 MR. FOGARTY: So moved.
 7 MR. MENNERICH: Second.
 8 CHAIRMAN EWASUTYN: I have a motion by
 9 Tom Fogarty. I have a second by Ken Mennerich.
 10 Any discussion of the motion?
 11 (No response.)
 12 CHAIRMAN EWASUTYN: I'll move for a
 13 roll call vote starting with Frank Galli.
 14 MR. GALLI: Aye.
 15 MR. BROWNE: Aye.
 16 MR. MENNERICH: Aye.
 17 MR. PROFACI: Aye.
 18 MR. FOGARTY: Aye.
 19 MR. WARD: Aye.
 20 CHAIRMAN EWASUTYN: Myself yes. So
 21 carried.
 22 At this time I'll turn to Mike
 23 Donnelly, Planning Board Attorney, to give us
 24 conditions of approval for the two-lot
 25 subdivision of Botrac Properties.
 MICHELLE L. CONERO - (845)895-3018

1 24
 2 MR. DONNELLY: The resolution is one of
 3 final subdivision approval. There are two
 4 conditions. The first is we'll need a sign-off
 5 letter from the highway superintendent on the new
 6 lot 2 driveway location. Secondly, the plans
 7 will not be signed until the parkland fee of
 8 \$2,000 for each lot is paid.
 9 CHAIRMAN EWASUTYN: Okay. I'll move
 10 for a motion to grant final conditional approval
 11 for the Botrac two-lot subdivision subject to the
 12 recitation that was given by Mike Donnelly.
 13 MR. PROFACI: So moved.
 14 MR. WARD: Second.
 15 CHAIRMAN EWASUTYN: I have a motion by
 16 Joe Profaci. I have a second by John Ward. Any
 17 discussion of the motion?
 18 (No response.)
 19 CHAIRMAN EWASUTYN: I'll move for a
 20 roll call vote starting with Frank Galli.
 21 MR. GALLI: Aye.
 22 MR. BROWNE: Aye.
 23 MR. MENNERICH: Aye.
 24 MR. PROFACI: Aye.
 25 MR. FOGARTY: Aye.
 MICHELLE L. CONERO - (845)895-3018

MR. WARD: Aye.
CHAIRMAN EWASUTYN: Myself yes. So carried.
Thank you for coming.
MR. MARSHALL: Thank you very much.
(Time noted: 7:22 p.m.)

CERTIFICATION

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

DATED: December 26, 2011

MICHELLE L. CONERO - (845)895-3018

MR. BROWNE: Our next item of business is a conceptual three-lot subdivision titled Eugene Ghikas Subdivision, project number 2011-26. It's being presented by Vincent Doce.
MR. DOCE: This evening I'm here representing Eugene and Warren Ghikas on an application for a modification of an existing approved three-lot subdivision.

On the board here I have a copy of the subdivision as it was previously approved. It's at the corner of Highland Avenue and Fern Avenue, just a few hundred feet southerly of Route 52.

As I said before, this is an approved subdivision and it's a filed subdivision map. Mr. and Mrs. Ghikas asked me to review the approved subdivision and ascertain as to whether there could be anything done about a stepped retaining wall to the back of the property, was there any way to remove that retaining wall. The review that I performed showed that there was one way of doing it that would be very effective, and that was by removing the house -- the proposed house location that you see hatched in red at this location and move it up to another location,

MICHELLE L. CONERO - (845)895-3018

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

EUGENE GHIKAS SUBDIVISION
(2011-26)
Highland Avenue and Fern Avenue
Section 67; Block 8; Lot 1.21
AR Zone

CONCEPTUAL THREE-LOT SUBDIVISION

Date: December 1, 2011
Time: 7:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE

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

MICHELLE L. CONERO - (845)895-3018

and that would be -- that would remove the necessity of the retaining walls because it's in a flatter area and the slopes behind the house will not be disturbed. That's really the only change that we're requesting is to change the house location on existing lot 3 from this location to this location. Everything else, as far as configuration, building envelopes, septic, everything else stays just as it was previously approved. I feel that moving the house is advantageous to the development and causes no problems that I can see whatsoever. That is basically what our application is for. It would remove the retaining walls.

Just so that the application doesn't receive any adverse reception in the future, I did show -- with the house location, I didn't want to mislead anybody, and there is an option on here of putting a little retaining wall next to the house. That's really because that's very often done with this type of house set in that area. It's only really for purposes of almost aesthetics. It isn't required. When they go for their building permits, if I didn't show the

MICHELLE L. CONERO - (845)895-3018

1 29
2 retaining wall here as being a possibility, I was
3 afraid somebody would say gee, you never showed
4 that retaining wall. We're showing it but it's
5 more or less an option. I think your technical
6 consultants will agree to that. It's something
7 that's often done. It's usually not even
8 mentioned when a subdivision is presented. I
9 mention it here because I didn't want, at some
10 later date, somebody saying you removed the
11 retaining wall because you still had one there.
12 That retaining wall may never go there if the
13 builder situates his house a little bit --
14 decides to slope the land a little bit
15 differently. I mean it's only a wall running
16 from about that high down to the ground, six
17 inches. It's only for aesthetic purposes and to
18 make this area of the yard look a little better.
19 Essentially that's what we're asking,
20 to move the house location.
21 CHAIRMAN EWASUTYN: Questions from
22 Board Members. Frank Galli?
23 MR. GALLI: Pat will cover my question
24 I had about the setback line.
25 CHAIRMAN EWASUTYN: Cliff Browne?
MICHELLE L. CONERO - (845)895-3018

1 30
2 MR. BROWNE: I don't have any questions
3 per se. Moving the house I think is a good
4 improvement on the whole plan. I like the
5 improvement done that way. I think we're going
6 to discuss some other points a little bit later.
7 CHAIRMAN EWASUTYN: Ken Mennerich?
8 MR. MENNERICH: Nothing at this time.
9 CHAIRMAN EWASUTYN: Joe Profaci?
10 MR. PROFACI: No questions.
11 CHAIRMAN EWASUTYN: Tom Fogarty?
12 MR. FOGARTY: I just have one. Did you
13 say that the well and the septic are going to
14 remain in the same place even though you moved
15 the house?
16 MR. DOCE: Yes. Everything else stays
17 the same. It's on Town water and the septic is
18 in the same position.
19 CHAIRMAN EWASUTYN: John Ward?
20 MR. WARD: No questions.
21 CHAIRMAN EWASUTYN: Jerry Canfield,
22 Code Compliance?
23 MR. CANFIELD: I don't have anything
24 new. The consultants have already covered some
25 comments, or they will. I have nothing on the
MICHELLE L. CONERO - (845)895-3018

1 31
2 concept plan at this time.
3 CHAIRMAN EWASUTYN: Pat Hines, Drainage
4 Consultant?
5 MR. HINES: Our first comment just
6 notes, as Mr. Doce noted, that the house location
7 is going to be moved. We did identify the small
8 retaining wall proposed at the driveway. It's
9 four feet or less in height. I just wanted to
10 note that there is still a retaining wall shown.
11 We would consider that a landscape feature rather
12 than a structural wall that the previous walls
13 were. We don't have any problem with that. I
14 just wanted to bring it out as Mr. Doce
15 identified there is still a small wall on lot 3,
16 but it's not something that would require a
17 building permit or extensive site work.
18 There is a note on the plans that says
19 building setback line approved by Town of
20 Newburgh Planning Board shown on filed map. I
21 would like Mr. Doce to clarify the meaning of
22 that. It looks like there might be a small piece
23 of deck, it could be a deck or a porch or
24 something, sticking across there. If that's just
25 a sidewalk, it's not an issue.
MICHELLE L. CONERO - (845)895-3018

1 32
2 MR. DOCE: There's nothing that
3 encroaches. All I'm saying is everything is the
4 same. The same building envelopes that were
5 previously approved are being maintained here.
6 MR. HINES: That's a sidewalk or
7 something shown from that note?
8 MR. DOCE: Yes. Yes.
9 MR. HINES: I just wanted to make sure
10 there wasn't a deck protruding out there that may
11 have been previously shown.
12 We would recommend that the standard
13 note the Town of Newburgh has regarding buildings
14 that are at or near setback lines be added to the
15 plan, that the footprint of the building be
16 staked prior to pouring the foundations. The one
17 corner of this house is at the building setback
18 line under the current plan, as well as the front
19 yard setback. So that note protects any
20 potential buyers and contractors and future
21 owners of the site from having to go to the ZBA
22 because of a small mistake that may encroach on
23 one of the setbacks.
24 As Cliff had said, this plan before us
25 has significantly less site work and shows the
MICHELLE L. CONERO - (845)895-3018

1 33
2 lot able to be constructed without the retaining
3 walls that were previously required. That's all
4 we have.
5 CHAIRMAN EWASUTYN: Bryant Cocks,
6 Planning Consultant?
7 MR. COCKS: I did speak to Darren Doce
8 today about my comments regarding the residential
9 lot area requirements. He's aware and will put
10 that on the plan.
11 Just a surveyor's seal and signature
12 will be required. The owner's endorsement note
13 must be signed.
14 Other than that, Pat addressed the
15 comment of the encroachment on the setback.
16 CHAIRMAN EWASUTYN: All right. Then
17 I'll move for a motion from the Board to grant
18 conceptual approval for the three-lot subdivision
19 for Ghikas and schedule it for the 19th of
20 January for a public hearing.
21 MR. GALLI: So moved.
22 MR. PROFACI: Second.
23 CHAIRMAN EWASUTYN: Who made the
24 motion?
25 MR. GALLI: I did.
MICHELLE L. CONERO - (845)895-3018

1 34
2 CHAIRMAN EWASUTYN: I have a motion by
3 Frank Galli. I have a second by Joe Profaci.
4 Any discussion of the motion?
5 (No response.)
6 CHAIRMAN EWASUTYN: I'll move for a
7 roll call vote starting with Frank Galli.
8 MR. GALLI: Aye.
9 MR. BROWNE: Aye.
10 MR. MENNERICH: Aye.
11 MR. PROFACI: Aye.
12 MR. FOGARTY: Aye.
13 MR. WARD: Aye.
14 CHAIRMAN EWASUTYN: Myself. So
15 carried.
16 MR. DOCE: If I could have a
17 clarification, not on this but in the future.
18 Since the lot lines will stay identical as they
19 are now, we're not revising any lot lines and
20 just moving the house location, does that still
21 require a public hearing or not? It's an
22 approved, filed subdivision just as it looks now
23 except we're saying we would like to move a house
24 from here to here, and I was wondering -- I
25 wasn't quite clear on why that needed a public
MICHELLE L. CONERO - (845)895-3018

1 35
2 hearing.
3 MR. DONNELLY: Vince, you're also
4 removing a substantial retaining wall that was
5 the focus of the entire approval in the first
6 place.
7 MR. DOCE: Right.
8 MR. DONNELLY: It's the Board's call as
9 to whether or not a public hearing is required.
10 The standard is whether or not what you present
11 now is in substantial conformity with what was
12 submitted before. During discussion at the work
13 session the Board felt that there were enough
14 changes, particularly in regard to that large and
15 massive retaining wall, proposed clearing limits
16 and a whole lot of other things, and particularly
17 since a number of adjoining residents were
18 present at the first hearing and heard the
19 convoluted we went through to come up with a
20 solution, that under these circumstances it is
21 not in substantial conformance and does require
22 an additional public hearing.
23 MR. DOCE: I can understand, albeit
24 everything to the better as far as serving the
25 project.
MICHELLE L. CONERO - (845)895-3018

1 36
2 MR. DONNELLY: I think that there's
3 agreement on that score.
4 MR. DOCE: Okay. I thank you very
5 much.
6 CHAIRMAN EWASUTYN: If you were to
7 contact -- Bryant Cocks will contact you as far
8 as the mailing list and the publication. If
9 possible, Darren knows, the Tuesday before the
10 meeting if you could bring in the registered
11 receipts from that mailing, we'd appreciate it.
12 MR. DOCE: Okay. Thank you.
13
14 (Time noted: 7:34 p.m.)
15
16
17
18
19
20
21
22
23
24
25
MICHELLE L. CONERO - (845)895-3018

CERTIFICATION

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

DATED: December 26, 2010

MICHELLE L. CONERO - (845)895-3018

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
In the Matter of

RUSSELL AND LEE SITE PLAN
(2011-27)

164-166 South Plank Road
Section 64; Block 4; Lot 21.0
B Zone

CONCEPTUAL SITE PLAN

Date: December 1, 2011
Time: 7:34 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

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

MICHELLE L. CONERO - (845)895-3018

MR. BROWNE: The next item of business we have is Russell and Lee Site Plan, project number 2011-27. This is a conceptual site plan being presented by AJ Coppola.

MR. COPPOLA: Thank you. My name is AJ Coppola and I'm the project architect. This is John Russell with me tonight. He's the owner of the property.

Basically this is -- we're here for site plan approval for three existing buildings and two accessory structures on a 1.2 acre site at 164-166 South Plank Road.

This process started when John visited the Building Department inquiring about the existing certificates of occupancy. That prompted a response from the Building Department, which we included in the application, stating that basically we would need to go in front of the Planning Board because of the pre-existing nonconformity here, which I'm going to try and outline in a minute.

So we are not proposing any new building, any new expansion of any of the existing footprints. We basically want to

MICHELLE L. CONERO - (845)895-3018

clarify and get approved, and maybe even go back to what was the original -- what the building department has of the original occupancies. Maybe that would be an option to clarify and kind of legalize everything, everything that's here.

So in summarizing what we have, the three main buildings, there's an existing house, there's the main building which is called building number 2. That's the one in the center. There's the third building on the east side of the property. There's also two accessory structures in the back, one is the garage and one is a storage building further in the back. So basically I've charted out all of the existing occupancies. That's what I think the Building Department has as a matter of record, what it's currently being occupied at and what the proposed use is at. We've sat down and met with the Building Department once, and talked to the assessor's office actually too.

So the single-family house, that's building number one, that they have -- the Building Department has that as a single-family house. It's currently occupied as a single-family

MICHELLE L. CONERO - (845)895-3018

1 41
2 house, and that's the proposed use. So we want
3 no change with that building.
4 The building in the center, the larger
5 building, was originally used as a florist shop.
6 I think that's the legal use as far as the
7 Building Department records. It was originally
8 used as a florist, and John had actually gotten a
9 building permit in 1994 --
10 MR. RUSSELL: `97.
11 MR. COPPOLA: -- I'm sorry, `97 to
12 expand that use. There were two building permits
13 over the years.
14 MR. RUSSELL: There were two
15 greenhouses I got permits for.
16 MR. COPPOLA: So they were open and
17 closed in the `90s. It was a florist at that
18 time.
19 MR. RUSSELL: Yes.
20 MR. COPPOLA: Up until 2006 it was
21 occupied as a church. So that was an assembly
22 use. That use has recently left, so it's no
23 longer occupied as a church. Basically we're
24 proposing more or less the original use which
25 would be primarily a retail use. I labeled it as
MICHELLE L. CONERO - (845)895-3018

1 42
2 office/retail but that building is probably much
3 more applicable for what it was originally used
4 for, as a mercantile or retail use. That's what
5 our proposed use is. Currently that building is
6 vacant.
7 The third building originally was used
8 -- actually, according to the Building Department
9 record, that is originally a single-family house.
10 I don't think that was ever converted to that use
11 over the years. It's been used as an office. It's
12 currently used as a florist shop. Again, we
13 probably view that as our proposed use as retail
14 or retail/office. So that I think has the most
15 -- that would be a definite change of occupancy I
16 think. So that's kind of where we're starting
17 from.
18 Part of the discussion I think we'd
19 like to have tonight, or maybe even at a workshop
20 session, one of the things that plays into our
21 plans in a big way is the Town's sprinkler
22 ordinance. I think we probably want to have a
23 discussion with Jerry about that at some point,
24 what buildings would fall under that requirement,
25 because that of course is a main construction
MICHELLE L. CONERO - (845)895-3018

1 43
2 cost in terms of bringing the sprinkler to either
3 of those two commercial buildings.
4 So basically, you know, in terms of the
5 site, I've tried to lay it out as best I could
6 within the existing pavement lines. I understand
7 we have the comments from Pat, I have the
8 comments from Bryant, and I understand that we're
9 tight and to a certain extent nonconforming on
10 some of those dimensions and distances.
11 Basically we're -- I'm using everything that's
12 there. There's an existing two-way entrance that
13 is on the left side of the property and then the
14 entrance in front of the florist shop is
15 basically not defined at all, that's just right
16 off of South Plank Road. You pull into the
17 parking there.
18 We're proposing a little bit of
19 landscaping in the front. There is a green strip
20 there. We're proposing site lighting and we are
21 proposing the striping in the definition of the
22 parking -- of the existing parking.
23 So in terms of the parking -- I'm sure
24 we'll get into a discussion about everything
25 that's nonconforming. Just in terms of the
MICHELLE L. CONERO - (845)895-3018

1 44
2 parking, I calculated 25 spaces required and 18
3 proposed as far as what I could fit on the
4 pavement. That's basically it.
5 CHAIRMAN EWASUTYN: Let's step back
6 from what you just said. Everything that's
7 nonconforming, and Bryant Cocks will speak with
8 you on that now. In order to determine what is
9 nonconforming, we need to know the use and apply
10 that use to what would be the standard or the
11 requirement.
12 Bryant, would you speak?
13 MR. COCKS: In regards to the accessory
14 structures, in the B Zone the retail use is not
15 allowed to have an accessory structure. So that
16 would be an additional variance on top of what I
17 have listed. If the accessory structure is on
18 top of a single-family home, then it wouldn't be
19 allowed. Since you did indicate it was going to
20 be retail use, then that would be --
21 MR. COPPOLA: Well, that's a question I
22 don't really know what the answer is. The
23 single-family home we still want to have there.
24 MR. COCKS: Yeah. I'm saying the
25 accessory structures that go along with that.
MICHELLE L. CONERO - (845)895-3018

1 45
2 You either have to -- there are three separate
3 accessory structures on there, which if they were
4 tied -- if you were using those for storage for
5 the retail use, that wouldn't be allowed in the B
6 Zone. We would need to pin that down. If that's
7 going to be retail, then that would have to be
8 one of the variances if you intended to use that
9 for storage.
10 MR. COPPOLA: Are they used for the
11 house, the garage and the --
12 MR. RUSSELL: The storage in the back
13 is the house. The garage, there's nothing there.
14 There's nothing in the garage really. There's no
15 storage. It's completely empty . The reason
16 being it gets flooded. It doesn't get really
17 used. When I had the flower shop I did use it to
18 make flowers. It's flooded. Especially the last
19 flood it was completely flooded. Really there's
20 nothing in there at this present in time. I'm
21 really almost about ready to take it down because
22 the flooding is so bad. The only thing that the
23 house uses -- it's like a shed in the back, that
24 one frame thing. It's a texture 111 around it.
25 It's just a shed.
MICHELLE L. CONERO - (845)895-3018

1 46
2 MR. COPPOLA: I mean could we state
3 it's for use by the house and then --
4 MR. COCKS: Yeah. If you're going to
5 take it down, that would be fine. Or if you can
6 put notes on the plans stating what that
7 accessory use would be tied to, that would
8 eliminate that.
9 The area variances that will be
10 required for the site are two front yard setbacks
11 for the two proposed office/retail buildings, a
12 side yard setback for building 3, a side yard
13 setback for building 1, both side yard setbacks,
14 rear yard setback on building 3, and a parking
15 variance for only showing 18 spaces when 25 are
16 required.
17 MR. COPPOLA: I mean just to ask a
18 question, if this building number 2 was
19 originally used as a florist, which I think is a
20 mercantile or retail use, and that's the only
21 thing we would want it to be used for, does that
22 come out of the equation in terms of the setbacks
23 or in terms of anything?
24 MR. DONNELLY: Whenever you change a
25 use on a site that has noncomplying buildings,
MICHELLE L. CONERO - (845)895-3018

1 47
2 which you're doing for the upper most building
3 there, that triggers, under 185-19 C-2, a loss of
4 the noncomplying building protection and the
5 requirement that you get a variance. So really
6 returning the middle building to some earlier
7 historical use doesn't solve your problem because
8 you're proposing to use one of the other
9 buildings for a change in use.
10 MR. COPPOLA: Okay. So in terms of
11 everything, the parking, the setbacks, it's all
12 gone because of the other building?
13 MR. DONNELLY: Correct.
14 MR. COPPOLA: Or because of the other
15 use?
16 MR. DONNELLY: Yes.
17 MR. COPPOLA: Okay.
18 MR. COCKS: I do have a couple of
19 additional comments. On the single-family home,
20 how are you proposing to access that? Right now
21 there's no driveway shown and there's no parking
22 spaces for --
23 MR. COPPOLA: I mean I'll show
24 something. I didn't show anything to the front
25 door. I'm not sure if there's anything now.
MICHELLE L. CONERO - (845)895-3018

1 48
2 MR. RUSSELL: There's a sidewalk to the
3 side and -- there's a sidewalk to the side going
4 to the -- that's really coming out of the house.
5 There is a sidewalk coming out to the parking
6 lot.
7 MR. COPPOLA: I will show that. It
8 didn't get picked up in the survey. I will show
9 that.
10 The parking, I do show 2 parking spaces
11 out of the 25. I mean I could label them for use
12 by residents or put a sign up.
13 MR. COCKS: Yeah. I would think you
14 would have to have some type of label. I know
15 there are concerns about the existing parking lot
16 and what's proposed here. I mean I think Pat
17 mentioned the turning radius for it. It's going
18 to be kind of hard for people to get in and out
19 of this parking lot, especially with having a
20 residence there. I mean it's going to be a tough
21 situation.
22 One other thing about the parking lot
23 is the Planning Board has been requiring
24 applicants to upgrade existing parking lots to
25 current standards. So now we're talking about
MICHELLE L. CONERO - (845)895-3018

1 49
2 drainage, and curbing, and paving. I don't know
3 if that's going to even make it a little tighter.
4 So you're going to have to take a look at the
5 turning movements and how that's going to
6 function there.
7 MR. COPPOLA: Well now that we have
8 your comments, we'll take a look at that,
9 including Pat's comment about the stuff that --
10 the dimensions that are tight. I mean I know
11 what they are. We'll see what we can do to
12 address those. It may mean we lose a parking
13 space, but we'll do that.
14 MR. COCKS: Those are my major issues
15 for the conceptual approval.
16 CHAIRMAN EWASUTYN: Pat Hines, Drainage
17 Consultant?
18 MR. HINES: Our initial comments are
19 once you make it to the Zoning Board, we wanted
20 to list some of the other issues that the Board
21 is going to have there. One Bryant just
22 mentioned, the Town's policy of upgrading
23 commercial parking lots, as they come in for new
24 uses, to the Town standard of putting in curbing,
25 the appropriate striping required by the zoning,
MICHELLE L. CONERO - (845)895-3018

1 50
2 and paving which often times dominos into a
3 drainage issue. You may be able to put some drop
4 curbs in rather than a closed pipe drainage
5 system. That's something you can look at. The
6 Town does require commercial parking spaces to be
7 conventionally curbed for definition of traffic
8 control and drainage control.
9 We talked about the number of parking
10 spaces.
11 The Board needs to submit this to DOT.
12 I would be surprised if DOT allowed the current
13 configuration of vehicles backing out into Route
14 52 in front of building 3. It certainly doesn't
15 meet any of their policies or standards, so there
16 may be some requirements that they have. We're
17 suggesting you meet with them sooner rather than
18 later as you progress here to see what they will
19 allow. Typically they allow one entrance drive
20 through a commercial property. Again, they may
21 allow some existing configurations to remain.
22 It's just kind of a red flag that there may be
23 some significant changes required. There may
24 not. It's DOT's jurisdiction.
25 We talked about the accessory
MICHELLE L. CONERO - (845)895-3018

1 51
2 structures. I have the same comments.
3 Then the parking. The 60 foot width is
4 an issue you need to take a look at.
5 There's two-way traffic shown between
6 building 2 and the residential but only an
7 eleven-foot wide width. That may need to be
8 changed to a one-way. Or the planting in front
9 that exists there, the existing tree to remain
10 may need to be modified to allow adequate vehicle
11 access in and out of there. I think a lot of
12 that is going to hinge on what DOT is going to
13 allow to remain after you have this change of use
14 approved.
15 MR. COPPOLA: Well we'll do that first.
16 That may affect the number of parking spaces in
17 front of this building if I have an entrance.
18 MR. HINES: Once you're at the ZBA
19 there are some other issues out there that need
20 to be addressed. That's all we have.
21 MR. COPPOLA: I guess I have another
22 question. Again, maybe this should be for you
23 Jerry. We sat down with Joe Matina, and this
24 building number 3, the one that was originally a
25 single-family house, it's now a florist, he said
MICHELLE L. CONERO - (845)895-3018

1 52
2 that we couldn't even return it to a single-
3 family house.
4 MR. DONNELLY: That's correct.
5 MR. COPPOLA: Okay.
6 MR. DONNELLY: Single-family homes are
7 not allowed in this zone. Those that already
8 exist are permitted to remain. Once they lose
9 that character and stop being a single-family
10 home, they can't go back.
11 MR. COPPOLA: My question is where am I
12 starting with that? I can't go back to what it
13 originally was. I have nothing on that.
14 MR. DONNELLY: I think that's part of
15 the problem. That's what I said, that triggers
16 the need because you're proposing a change in
17 use.
18 MR. COPPOLA: You can't go back.
19 MR. DONNELLY: Well you can get a use
20 variance.
21 MR. COPPOLA: That's what we're afraid
22 of.
23 MR. DONNELLY: You can apply for a use
24 variance.
25 MR. HINES: I think you're in the same
MICHELLE L. CONERO - (845)895-3018

1 53
2 situation on building 2, that lost its retail
3 component and went to a church or something.
4 MR. COPPOLA: None of that was ever
5 memorialized or --
6 MR. HINES: But you stopped that use
7 for more than a year and it loses that
8 protection.
9 MR. COPPOLA: The use is allowed. It's
10 allowable in the zone, the retail is.
11 MR. HINES: You gave that use up and
12 now you're changing it back. You can't have, for
13 lack of a better term, illegal use for several
14 years and say I'm going to go back to whatever --
15 MR. DONNELLY: AJ was trying to find a
16 way, if possible, if he returned everything to
17 some prior status, would he not need to get
18 variances for the buildings. The answer to that
19 is it's not possible to return things to a prior
20 nonconforming status because you've lost the
21 ability to use building 3 as a single-family
22 home.
23 MR. COPPOLA: Right. But just so I
24 understand this and try and explain this again in
25 front of the Zoning Board when I get there, let's
MICHELLE L. CONERO - (845)895-3018

1 54
2 say building number 2 were on its own lot and it
3 was a simpler thing, I could just return that to
4 a retail use, correct Jerry, and I wouldn't be
5 here?
6 MR. DONNELLY: If it had some approval.
7 MR. COPPOLA: It's got to start with
8 something. If it was used for -- according to
9 the -- I mean according to your records, I
10 believe it was a florist shop. That's what our
11 discussion was with Joe. So in a simpler world,
12 if that was alone, I would still have that use.
13 I mean I understand it's very complicated because
14 I have other things going on here.
15 MR. DONNELLY: You're saying you have a
16 piece of property and it's been around so long it
17 had no approvals and it had a certain set of
18 uses. The building in which those uses were
19 housed were noncomplying as to both. I think the
20 answer to the question is you could continue on
21 without any problem. Again, in your example, if
22 the center building were the only building there
23 and that was the situation, I think your
24 protection would continue. When you changed it
25 away from a florist and turned it into a church,
MICHELLE L. CONERO - (845)895-3018

1 55
2 and you now propose to bring it back to a
3 florist, I don't think, but the Zoning Board may
4 have to make the call, that that would entitle
5 you to return to the protection because the
6 protection was based upon it continuing.
7 Whenever you change the use, that protection is
8 lost. I think it's academic here because
9 building 3 --
10 MR. COPPOLA: Yeah.
11 MR. DONNELLY: -- is clearly out of the
12 picture anyway.
13 MR. COPPOLA: That's what you're saying
14 is triggering in effect anyway for the whole lot,
15 the house, the accessory structures and the whole
16 ball of wax?
17 MR. DONNELLY: Yes.
18 MR. COPPOLA: I mean if you still have
19 workshops, I mean I think we would probably ask
20 to go to that. What I'm planning on doing is --
21 I mean we'll contact DOT, we'll see what they say
22 about this entrance here, what they want to do
23 with that. The parking lot -- the number of
24 parking spaces is going to change. It may change
25 because of what's happening in front of this
MICHELLE L. CONERO - (845)895-3018

1 56
2 building, and maybe I have to change it to make
3 it more conforming in terms of the distances
4 here. I'll take a look at Pat's comments. I
5 would probably like to address that. I may come
6 back to a workshop and talk this out and then go
7 to the Zoning Board after that. I mean --
8 MR. DONNELLY: It doesn't make sense to
9 go to the Zoning Board yet because the parking
10 you have to return if it changes.
11 MR. COPPOLA: Right.
12 CHAIRMAN EWASUTYN: At the same time
13 you won't go to the Zoning Board until you meet
14 with the DOT to see if you're going to be moving
15 some parking spaces.
16 MR. COPPOLA: I'll start with that.
17 CHAIRMAN EWASUTYN: The purpose of the
18 consultants' meeting isn't to have the
19 consultants help you design the property.
20 MR. COPPOLA: Well no. I mean I
21 understand what Pat's comments are here. I'm
22 trying to make this work on the existing
23 pavement, like 59 feet and it should be 64 feet.
24 But if I can come up with an acceptable layout,
25 I'll at least know my number of parking spaces.
MICHELLE L. CONERO - (845)895-3018

1 57
 2 It's probably not going to affect anything else
 3 aside from that. I mean the setbacks are the
 4 setbacks. I may have other bulk -- the parking
 5 spaces would be the only wild card I think in
 6 terms of the Zoning Board. Everything else will
 7 be the same.
 8 MR. COCKS: I would think so.
 9 CHAIRMAN EWASUTYN: Signage you'll
 10 worry about at a later date.
 11 MR. RUSSELL: I have a permit for a
 12 sign out front. I got that in '95. Does that
 13 not work?
 14 CHAIRMAN EWASUTYN: I don't know if
 15 you're proposing new signage for the property.
 16 MR. RUSSELL: All right.
 17 MR. COPPOLA: I don't think we are
 18 proposing new signage.
 19 MR. RUSSELL: No. Just the original
 20 sign.
 21 CHAIRMAN EWASUTYN: At some point in
 22 time you'll have to show what is on the site.
 23 Jerry Canfield, Code Compliance?
 24 MR. CANFIELD: We talked quite a bit
 25 about the zoning requirements. Anthony, there's
 MICHELLE L. CONERO - (845)895-3018

1 58
 2 an additional yard requirement, a front yard
 3 requirement on State and County roads. The front
 4 yard requirement is 60 feet. It can be as little
 5 as 50 feet if a building on each side within 300
 6 feet is an average, which is closer. If you look
 7 at 185-18, that talks about additional yard
 8 requirements. We can talk about that at the
 9 consultant meeting if it goes that way.
 10 This is not a requirement but just an
 11 advisement, if you don't already know, that this
 12 is in a flood zone. I'm sure you've experienced
 13 water there like everyone else along that stream.
 14 Because there's no change to any of the
 15 footprints or any of the buildings, there's no
 16 requirement other than just advising you that you
 17 are in a flood zone.
 18 The sprinkler requirement that you had
 19 mentioned we can discuss also in the work session
 20 if we go that way. Basically the way it is,
 21 there is an exemption for 2,500 square feet and
 22 below in office occupancy.
 23 MR. COPPOLA: Right.
 24 MR. CANFIELD: That's the only
 25 exception, though.
 MICHELLE L. CONERO - (845)895-3018

1 59
 2 MR. COPPOLA: Right.
 3 MR. CANFIELD: Anything retail or
 4 anything other, it applies. Because it is a
 5 local ordinance, there is a variance process
 6 available to you.
 7 MR. COPPOLA: Okay.
 8 MR. CANFIELD: That's all I have.
 9 CHAIRMAN EWASUTYN: Bryant, what is the
 10 date for the next consultants' meeting?
 11 MR. COCKS: December 27th.
 12 CHAIRMAN EWASUTYN: December 27th.
 13 Okay. Before I poll the Board Members if they
 14 want to set this for a consultants' work session
 15 on the 27th of December, do the Board Members
 16 have any questions or comments? Frank Galli?
 17 MR. GALLI: No additional.
 18 CHAIRMAN EWASUTYN: Cliff Browne?
 19 MR. BROWNE: Just with everything
 20 concerned on this, I don't know, it just kind of
 21 crossed my mind, would it make any sense to
 22 destroy the property and start with a real
 23 commercial entity of some sort? Just a thought
 24 to throw out there.
 25 MR. RUSSELL: The thing is I probably
 MICHELLE L. CONERO - (845)895-3018

1 60
 2 shouldn't have done anything. I tried to fix up
 3 the property and make it nicer. It was a
 4 mistake.
 5 MR. BROWNE: Things happen. Other than
 6 that, no.
 7 MR. RUSSELL: I mean you're going to
 8 knock it all down? Maybe just sell it.
 9 CHAIRMAN EWASUTYN: Ken Mennerich?
 10 MR. MENNERICH: What is the one-story
 11 frame building that's off to the left?
 12 MR. RUSSELL: It's just a shed. It's
 13 just a shed. It's like a tool shed.
 14 CHAIRMAN EWASUTYN: Joe Profaci?
 15 MR. PROFACI: No questions at this
 16 time.
 17 MR. FOGARTY: Should you get the
 18 information from the DOT before you have the work
 19 session?
 20 MR. COPPOLA: Well, I was going to --
 21 that's where I was going. I was going to say set
 22 me up for that date. She's impossible to
 23 predict. This may go to the Poughkeepsie office.
 24 I don't know with the DOT. I absolutely need
 25 that information before --
 MICHELLE L. CONERO - (845)895-3018

1 61
 2 MR. FOGARTY: For the work session.
 3 MR. COPPOLA: I'll try. It may -- I'll
 4 stay in contact with Bryant. Maybe it's January,
 5 you know. So yeah.
 6 MR. FOGARTY: Thank you.
 7 CHAIRMAN EWASUTYN: John Ward?
 8 MR. WARD: No comments.
 9 CHAIRMAN EWASUTYN: Okay. I'll move for
 10 a motion to set the Russell and Lee Site Plan
 11 for the consultants' work session on the 27th of
 12 December.
 13 MR. PROFACI: So moved.
 14 MR. GALLI: Second.
 15 CHAIRMAN EWASUTYN: I have a motion by
 16 Joe Profaci. Frank, you had the second?
 17 MR. GALLI: Yes.
 18 CHAIRMAN EWASUTYN: A second by Frank
 19 Galli. I'll move for a roll call vote starting
 20 with Frank Galli.
 21 MR. GALLI: Aye.
 22 MR. BROWNE: Aye.
 23 MR. MENNERICH: Aye.
 24 MR. PROFACI: Aye.
 25 MR. FOGARTY: Aye.
 MICHELLE L. CONERO - (845)895-3018

1 62
 2 MR. WARD: Aye.
 3 CHAIRMAN EWASUTYN: Aye. Okay.
 4 MR. COPPOLA: Thank you.
 5
 6 (Time noted: 8:00 p.m.)
 7
 8 C E R T I F I C A T I O N
 9
 10 I, Michelle Conero, a Shorthand
 11 Reporter and Notary Public within and for
 12 the State of New York, do hereby certify
 13 that I recorded stenographically the
 14 proceedings herein at the time and place
 15 noted in the heading hereof, and that the
 16 foregoing is an accurate and complete
 17 transcript of same to the best of my
 18 knowledge and belief.
 19
 20
 21 -----
 22
 23
 24 DATED: December 26, 2011
 25
 MICHELLE L. CONERO - (845)895-3018

1 63
 2 STATE OF NEW YORK : COUNTY OF ORANGE
 3 TOWN OF NEWBURGH PLANNING BOARD
 4 ----- X
 5 In the Matter of
 6
 7 GOLDEN VISTA
 8 (1999-33)
 9 Meadow Hill Road
 10 Section 60; Block 1; Lot 9
 11 R-3 Zone
 12 ----- X
 13 AMENDED SITE PLAN
 14 Date: December 1, 2011
 15 Time: 8:00 p.m.
 16 Place: Town of Newburgh
 17 Town Hall
 18 1496 Route 300
 19 Newburgh, NY 12550
 20
 21 BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
 22 FRANK S. GALLI
 23 CLIFFORD C. BROWNE
 24 KENNETH MENNERICH
 25 JOSEPH E. PROFACI
 THOMAS P. FOGARTY
 JOHN A. WARD
 ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
 BRYANT COCKS
 PATRICK HINES
 KAREN ARENT
 GERALD CANFIELD
 APPLICANT'S REPRESENTATIVE: KIRK ROTHER and
 STANLEY SCHUTZMAN
 ----- X
 MICHELLE L. CONERO
 10 Westview Drive
 Wallkill, New York 12589
 (845)895-3018
 MICHELLE L. CONERO - (845)895-3018

1 64
 2 MR. BROWNE: Our next item of
 3 business on our agenda, and our last, is
 4 Golden Vista, project number 1999-33. It's
 5 an amended site plan being represented by
 6 Kirk Rother.
 7 MR. SCHUTZMAN: And Stanley
 8 Schutzman, local attorney, on behalf of the
 9 applicant, Meadow Hill Holdings, LLC.
 10 Just to recap, we're before you
 11 tonight, having received conditional final
 12 amended site plan approval dated July 21st of
 13 2011, by which the Planning Board gave
 14 approval to the development of 161-unit
 15 multi-family housing community with 18 of
 16 those units designated as affordable housing
 17 pursuant to Newburgh Town Code 185-48. By
 18 letter application dated August 21, the
 19 applicant requested that the July 21, 2011
 20 authorizing resolution be revised so as to
 21 eliminate the requirement of the 18
 22 affordable residential units and to
 23 substitute instead a senior residential
 24 housing unit under Town Code 185-48.
 25 In terms of the existing approval we
 MICHELLE L. CONERO - (845)895-3018

1 65
 2 have to what's being presented tonight, it's
 3 my understanding that with the exception of
 4 modifying two buildings, buildings 8 and 9 as
 5 shown on the plan, each of which were
 6 previously approved for 16 units, that one of
 7 those buildings would be revised upward to
 8 add two units and the other building revised
 9 downward to eliminate two units. In doing so,
 10 that would allow 18 units to comprise
 11 building 9. It was the applicant's intention
 12 to put all of the senior residential housing
 13 units into one building, namely building
 14 9, that 18-unit building.
 15 That would also require a minor jog,
 16 ten feet or so, with respect to the parking
 17 lot between the two buildings to be moved
 18 over.
 19 With the exception, as I say, of
 20 changing those two building footprints, one
 21 to add two units, one to take off two units,
 22 it's my understanding that there is nothing
 23 new being proposed from the existing approval
 24 and the conditions which go with the existing
 25 approval.
 MICHELLE L. CONERO - (845)895-3018

1 66
 2 So we're here tonight to seek the
 3 Board's due consideration and approval of
 4 this letter application seeking that the site
 5 plan resolution be revised to eliminate the
 6 18 affordable units and instead substitute 18
 7 senior units.
 8 CHAIRMAN EWASUTYN: I'll ask you to
 9 speak to us as far as the completeness of your
 10 site plan as far as the earlier comments, and
 11 have your plans been revised or do they meet all
 12 of the comments the consultants made over the
 13 course of the last year?
 14 MR. ROTHER: The only change to the
 15 site plan as submitted tonight was this extension
 16 of the building, number 9, shortening of building
 17 number 8 and shifting of this parking lot
 18 slightly to the north.
 19 With regard to the consultants'
 20 comments, I believe the only comments that were
 21 somewhat significant were those of the Landscape
 22 Architect. We really haven't made any of the
 23 planned revisions with regard to those comments
 24 at this time.
 25 This proposed change under the plan
 MICHELLE L. CONERO - (845)895-3018

1 67
 2 does not, I believe, affect those comments which
 3 were conditions of the prior approval at the
 4 time. I don't believe they would affect them in
 5 any way.
 6 CHAIRMAN EWASUTYN: So how would you --
 7 how are you proposing to manage that? At what
 8 point will you be addressing those comments?
 9 MR. ROTHER: I suppose if the Board
 10 were going to grant an amended conditional final
 11 site plan approval, we would address those
 12 comments prior to submitting the maps for
 13 signature.
 14 CHAIRMAN EWASUTYN: Mike Donnelly, do
 15 you want to talk on behalf of that?
 16 MR. DONNELLY: We had a condition like
 17 that in -- I didn't bring it with me -- in the
 18 last resolution of approval that a satisfactory
 19 landscape plan would have to be submitted and
 20 signed off on by Karen. So you can continue that
 21 forward. Karen has a new letter. We can just
 22 reference the current memo.
 23 MS. ARENT: John, it's more than
 24 landscaping. The grading needs to be revised.
 25 CHAIRMAN EWASUTYN: Then you would have
 MICHELLE L. CONERO - (845)895-3018

1 68
 2 to sign off on that.
 3 MS. ARENT: And the lighting, too.
 4 Lighting needs to be submitted.
 5 CHAIRMAN EWASUTYN: Are you aware of
 6 that?
 7 MR. ROTHER: Yes. I believe that was a
 8 condition last time, revisions per Karen's
 9 comments are satisfied.
 10 CHAIRMAN EWASUTYN: Pat Hines, your
 11 comments?
 12 MR. HINES: Our first comment just
 13 addresses the 18 senior from the 18 affordable.
 14 We did bring up a concern for the Board
 15 to discuss at work session, moving all the senior
 16 units to building 9 and the timing of
 17 construction of that. You receive a bonus density
 18 for the senior units. Only one-third of the
 19 bonus units are proposed as senior units in
 20 compliance with the applicable codes. You could
 21 build the whole site out without conceivably ever
 22 building the senior units even at the end by
 23 placing them all -- previously the units were
 24 scattered about the site. I brought that up to
 25 the Board for discussion and whether there should
 MICHELLE L. CONERO - (845)895-3018

1 69
2 be some trigger mechanism as to X number of units
3 that the senior building number 9 currently shown
4 would have to be constructed because of that
5 concern. It could conceivably build out the
6 bonus units less the one-third senior bonus
7 units, getting two-thirds additional units under
8 the plan by segregating them into one building
9 and conceivably not building that. So that's a
10 concern. I know the Board discussed at the work
11 session possibly putting in a trigger, the number
12 of units when the senior units have to be
13 constructed. That's certainly a Board decision.
14 Just the density calculation, unit
15 calculation still refer to the affordable housing
16 on the plans. Those need to be updated as
17 appropriate.
18 We thought the change in unit size was
19 fairly minor and didn't change much on the plan
20 by way of grading in those areas, or the access.
21 Then it just looks like, Kirk, there
22 may have been one line missing, but there's a
23 large unit on the end.
24 MR. ROTHER: This is an interior line
25 shown. That was an exterior wall.
MICHELLE L. CONERO - (845)895-3018

1 70
2 MR. HINES: With that, that's all we
3 had on this. It was more of a concern of the
4 timing issue for the senior units.
5 CHAIRMAN EWASUTYN: Stanley, would you
6 want to address that?
7 MR. SCHUTZMAN: It's a good comment.
8 My question, before we start, would be how have
9 you addressed these matters with respect to
10 similar projects where bonus densities have
11 been --
12 MR. HINES: The previous units that we
13 had were all senior or none. It wasn't one-
14 third.
15 MR. SCHUTZMAN: So we're the test case.
16 How exciting.
17 MR. HINES: At work session we
18 discussed a threshold number of units where that
19 building would have to be constructed.
20 MR. SCHUTZMAN: Okay. It presents a
21 practical difficulty. If the market today is
22 seniors moving out and wanting it, that's going
23 to be somehow the first building that goes in.
24 MR. HINES: That would be fine, too.
25 MR. SCHUTZMAN: If the market
MICHELLE L. CONERO - (845)895-3018

1 71
2 conditions are such that it's more of a delay,
3 it's more of a staged thing. I don't know how
4 practically to address such a thing. There may
5 be opportunities within the notes or within -- in
6 some bonding issues perhaps to address these as a
7 matter of comfort. I think as a practical matter
8 it would be difficult for the applicant to say
9 that on renting the -- on building the first 75
10 units, all of a sudden they've got to build a
11 senior building. I don't think that's fair if
12 the market conditions are in difficulty at the
13 time.
14 CHAIRMAN EWASUTYN: Cliff Browne wanted
15 to say something.
16 MR. BROWNE: But that's what you want
17 to do. Because that's what you want to do,
18 that's what you have to work with. What we have
19 done in the past with other projects, not this
20 type but condos, we have put triggers in place
21 for building the entertainment and all those
22 kinds of things after so many places and so on.
23 That's part of your risk that you're taking
24 building the project with that density kickback
25 that you're getting. You're getting the
MICHELLE L. CONERO - (845)895-3018

1 72
2 kickback. We expect things to be done for that
3 kickback. It's as simple as that.
4 MR. SCHUTZMAN: Right. I understand
5 that.
6 MR. BROWNE: That's your risk.
7 MR. SCHUTZMAN: Again, I'm just raising
8 a practical difficulty. It's a little different
9 building the affordable component because the
10 affordable was more integrated.
11 MR. BROWNE: You could go back and take
12 that out and redo this as a completely normal
13 project.
14 MR. SCHUTZMAN: Or continue under the
15 affordable provisions.
16 MR. BROWNE: Yeah.
17 CHAIRMAN EWASUTYN: Frank Galli, you
18 had something to say?
19 MR. GALLI: Actually, I was just going
20 to touch on what Cliff just touched on. If you
21 look around the county, there's some affordable
22 senior housing projects that are built and people
23 wait in line to get them. I don't know why all
24 of a sudden the market is going to drop out if
25 you don't build it or if you build it nobody is
MICHELLE L. CONERO - (845)895-3018

1 73
2 going to buy it. There's waiting room only on
3 certain projects.
4 MR. SCHUTZMAN: Well that's good to
5 know, but that might cut again some of the
6 concerns that are raised, because if there's no
7 impediment to that, then there should be no
8 concern that it would be --
9 MR. GALLI: We want to make sure it's
10 built because you're taking the bonus density.
11 MR. SCHUTZMAN: I'll certainly raise it
12 with the applicant to see if I could have maybe
13 some guidance from the Board about what the Board
14 might consider under such circumstances.
15 Certainly I'm in a position to go back to the
16 applicant and raise it to see what can be
17 adequately addressed.
18 MR. GALLI: When you say you're putting
19 building 9 back there and a building up there,
20 you want to separate them from the rest of the
21 project?
22 MR. SCHUTZMAN: Yeah. The goal was --
23 the concern was as a marketing function, as a
24 living function that where you integrate a
25 minority component of senior living in a full
MICHELLE L. CONERO - (845)895-3018

1 74
2 family community, that the seniors, for the most
3 part, would be desirous of isolation and
4 separation wherever possible. We picked what we
5 thought was the furthest building away from the
6 playground and the, you know, other location
7 where practical.
8 MR. GALLI: Hopefully with -- just two-
9 bedroom apartments are your biggest. You have
10 one for the adults and one for one or two kids.
11 It's not like you're talking ten kids to an
12 apartment building. You're talking one bedroom.
13 How many kids realistically are they going to try
14 to fit in there? I'm sure you're going to have
15 some kind of rental agreement where you're only
16 allowed a certain amount of people to a bedroom.
17 MR. SCHUTZMAN: Speaking as a senior
18 citizen, I know that when I move into one of
19 these communities I don't want the possibility of
20 a screaming baby next to me, even if it's only
21 one. I think that there's a fair and justifiable
22 consideration for the seniors wanting to be as
23 isolated as far as practical, and our client has
24 proposed that.
25 MR. GALLI: Maybe you need to isolate
MICHELLE L. CONERO - (845)895-3018

1 75
2 them out in the front when you first start the
3 project.
4 CHAIRMAN EWASUTYN: I'm glad I live
5 close to Times Square so I'll never be isolated.
6 Maybe I'll never grow old like everybody else for
7 being too alone and too isolated. I don't
8 comprehend it, personally speaking.
9 John, you had something to say?
10 MR. WARD: We were thinking about a
11 certain amount of units. You're talking 18 units
12 for the seniors and you're talking it's down
13 below. If you could say build the units that are
14 doing that swap and have the number from there.
15 How many units per building?
16 MR. ROTHER: 16s, and this one at 13
17 just because of our numbers. The larger ones are
18 16, the rest were 12 market rate. Here we did
19 the swap with two units so that all the seniors
20 were in one building.
21 MR. WARD: What I'm asking is possibly
22 build four to five 16 units per and then do the
23 senior as a trigger.
24 MR. SCHUTZMAN: I guess there are a
25 number of ways to set the trigger. One of them
MICHELLE L. CONERO - (845)895-3018

1 76
2 might be to say that in the absence of the senior
3 density bonus, we would be entitled to, pardon me
4 if the number is wrong, 115 units. So that we
5 should be entitled to build up to that 115 units
6 because that's what we would have had an
7 opportunity for anyway in the context of --
8 CHAIRMAN EWASUTYN: That sounds
9 reasonable.
10 MR. SCHUTZMAN: Something like that I
11 could see would be a good solution that might
12 satisfy the Board's concerns versus, you know,
13 saying build two units for every building you
14 build or -- that would be unworkable.
15 MR. WARD: What I was saying is
16 basically what you just said. Say five
17 buildings, that's -- how much is that? How many
18 units total?
19 MR. SCHUTZMAN: That's only 90.
20 MR. WARD: Well give or take. That's
21 what I'm saying. You're in the same range of
22 what I'm suggesting. When you reach that figure,
23 then you can -- we're requiring you to do the
24 senior.
25 MR. SCHUTZMAN: Then the Board has not
MICHELLE L. CONERO - (845)895-3018

1 77
2 effectively given us a density bonus if we
3 haven't built past that point, because under the
4 current regulations we would be entitled to
5 whatever that number is.
6 CHAIRMAN EWASUTYN: Mike, can you
7 figure some verbiage?
8 MR. DONNELLY: The number I'll turn to
9 Bryant to calculate. I think Stan's suggestion
10 is a good one. We can say no more than X number
11 of non age restricted units may receive
12 certificates of occupancy until the age
13 restricted units are constructed and ready for
14 occupancy, and the number that we plug in is that
15 number of units to which the applicant was
16 entitled without application of the density
17 bonus. Bryant will tell us what that number is,
18 and I think that's a good suggestion.
19 MR. MENNERICH: Six units per acre;
20 right?
21 MR. ROTHER: Roughly 108 units by
22 right. 6 units per acre.
23 MR. DONNELLY: Does that sound right?
24 MR. HINES: Yeah.
25 MR. DONNELLY: What I did hear? I
MICHELLE L. CONERO - (845)895-3018

1 78
2 forgot it already.
3 MR. ROTHER: 108.
4 MR. DONNELLY: 108. I think that's a
5 better way to handle it.
6 MR. HINES: It sounds reasonable. If
7 they never build them they haven't gotten the
8 bonus density.
9 CHAIRMAN EWASUTYN: Bryant Cocks, we
10 haven't heard from you yet.
11 MR. COCKS: The senior building, just
12 since there's an maximum floor area for each unit
13 depending on the number of bedrooms, and that's
14 part of the Zoning Code, that the Planning Board
15 could just see that before it goes to the
16 Building Department.
17 Then as Pat said, the base unit density
18 calculations. In front of the senior buildings
19 there's currently four handicap spaces shown,
20 which does meet ADA requirements. I know the
21 Building Department was discussing that's a bit
22 light because 18 units and the possibility of
23 multiple people in units having wheelchairs or
24 needing handicap access.
25 MR. SCHUTZMAN: I'm trying to refer to
MICHELLE L. CONERO - (845)895-3018

1 79
2 the plans so I understand the comment.
3 MR. COCKS: Maybe a couple of
4 additional handicap spaces in front of the senior
5 building.
6 MR. ROTHER: That makes sense.
7 MR. COCKS: I know Karen will discuss
8 this with the landscape plan. The large paver
9 section with the one bench in it, I mean that was
10 a change from the plan before. That just seems
11 like an excessively large area for the pavers. I
12 didn't know what that was trying to accomplish,
13 or if there's more benches proposed there, or if
14 that could be reduced. It seems like a rather
15 large area for one bench.
16 MR. ROTHER: At one point in time we
17 discussed having an area in the front where kids
18 could wait for a bus because the bus won't go in
19 this area. In looking at it, actually while I
20 was sitting here, I counted the blocks on the
21 wall to get a sense of how big 43 feet is. I
22 think it's a big area.
23 CHAIRMAN EWASUTYN: If you could
24 redesign that.
25 MR. ROTHER: We'll make that paver area
MICHELLE L. CONERO - (845)895-3018

1 80
2 a little smaller. We can add some more benches.
3 MR. GALLI: You look right up the
4 street, Brighton Green, they have a small one, a
5 gazebo.
6 MR. ROTHER: We talked about a gazebo.
7 I think there was a question with this type of
8 development, whether that was appropriate.
9 CHAIRMAN EWASUTYN: That's fine.
10 Something simple. What the Board realizes also
11 is that in many cases the parents may want to
12 drive the children down and sit in their car with
13 them.
14 MR. COCKS: My last comment was just to
15 detail the playground equipment that's going to
16 be on the plan. You should just have it in the
17 detail sheet.
18 MR. ROTHER: Again, this was something
19 that I think was talked about and I didn't know
20 that it was a definitive resolution one way or
21 the other, whether we had to show that.
22 MR. ROTHER: I personally don't know.
23 CHAIRMAN EWASUTYN: Mike, let's go
24 through the conditions of approval on the
25 resolution and maybe that will spell out some of
MICHELLE L. CONERO - (845)895-3018

1 81
2 it.
3 MR. DONNELLY: The resolution I
4 fashioned as one that is a revised resolution of
5 approval rather than an amended subdivision
6 approval, because in fact all we've really done
7 is swapped around the units and made some minor
8 adjustments.
9 Using the conditions that were in the
10 earlier resolutions, we'll need sign-off letters
11 from Bryant, from Pat and from Karen Arent to
12 discuss their issues already. We'll make
13 reference to the description of the units and the
14 narrative that accompanied the application.
15 We'll require the submission of a floor plan
16 showing compliance with the maximum floor area
17 for the --
18 MR. SCHUTZMAN: May I ask a question
19 about that? I'm not understanding why pre-
20 building permit applications were being asked to
21 provide that information. That is -- why is that
22 something that should just be reserved for the
23 normal building permit process versus having to
24 prepare and show at this point as a condition
25 when the building is designated? We're required
MICHELLE L. CONERO - (845)895-3018

1 82
2 under law, there's going to be a map note to the
3 effect that that building or 18 units has to be
4 reserved. Presumably there's a map note to the
5 extent no COs will be issued past a certain point
6 until the senior housing component is complied
7 with.
8 MR. HINES: You can show it in the bulk
9 table as one bedroom.
10 CHAIRMAN EWASUTYN: Pat, let Jerry
11 Canfield speak on this. It's more of a Building
12 Department matter.
13 MR. CANFIELD: What he's speaking of
14 and asking for is for you to display to the
15 Board, prior to the permit being issued,
16 compliance with the regulation that you're
17 getting approved for. So is there an issue with
18 the floor plans at this point or they will not --
19 MR. SCHUTZMAN: Well, we're not certain
20 if they're going to be one-bedroom units or
21 two-bedroom units. That's one thing that just
22 comes right off the top of my head. I mean we
23 are -- we're locked into the requirements of what
24 the Town Code is in terms of the allowable square
25 footage. We looked in terms of we're designating
MICHELLE L. CONERO - (845)895-3018

1 83
2 the senior location. We're being locked in on
3 the issue that we can't build out through the
4 senior density bonus unless we're allocating for
5 senior residences. Respectfully, all that would
6 have to be presented to the Building Department
7 at the time that we're filing the building
8 permit. To do it today, I just respectfully
9 think it's something that's a Planning Department
10 issue downstream and not a Planning Board issue
11 today.
12 MR. DONNELLY: I think part of the fear
13 was that if we didn't flag it, maybe somebody
14 would forget. If we change the condition to say
15 a floor plan depicting compliance with the
16 maximum floor area requirements of the code for
17 senior units shall be submitted as part of the
18 building permit review process, then it's flagged
19 and your office would see it.
20 CHAIRMAN EWASUTYN: Are you satisfied
21 with that, Jerry?
22 MR. CANFIELD: It's possible if that's
23 acceptable. An option also may be if the Board
24 wants to see it beforehand, perhaps you could
25 develop or submit to the Board both the one and
MICHELLE L. CONERO - (845)895-3018

1 84
2 the two-bedroom apartments.
3 CHAIRMAN EWASUTYN: You seem to have a
4 problem with that, Stan.
5 MR. SCHUTZMAN: Respectfully, it's not
6 a problem, it's that the applicant was really
7 looking to do -- let me step back. As you all
8 know, this project has gone on many, many years,
9 in and out of moratoriums and what not. A
10 tremendous cost and expense in it. All we were
11 looking to do is swap out the senior requirement
12 for the affordable requirement. That's it. The
13 whole letter application was based on, and that's
14 what I initially had wrote in my letter, that
15 from a cost and expense standpoint, we didn't
16 want to put any more cost and expense in it. I
17 mean within reason. No new Planning Board
18 submittals, no new engineering submittals, no new
19 nothing.
20 CHAIRMAN EWASUTYN: That was really the
21 purpose of coming back, Mike, was to have an
22 amended resolution. That's what I was trying to
23 gather during the meeting, to have an amended
24 resolution for the resolution based upon the
25 senior housing. That's why there was a time
MICHELLE L. CONERO - (845)895-3018

1 85
2 delay set and the possibility of speaking with
3 the Town Board and coming up with something
4 reasonable. I think that's another reason why a
5 certain amount of sheets were presented tonight,
6 to just kind of bring closure to the project
7 itself at this point since 1999.
8 MR. DONNELLY: I'm not trying to step
9 on Jerry's toes but I think what's important is
10 no building permit be issued for units larger
11 than what's allowed.
12 MR. SCHUTZMAN: That kind of condition
13 is acceptable. The way you had phrased it is
14 something we don't object to, that at the
15 appropriate time we have to certify it. That's
16 fair. But to certify it for today in a free-
17 floating market and to be potentially putting
18 expense that has no consequence, in light of the
19 history of this, we just don't feel it's
20 appropriate.
21 CHAIRMAN EWASUTYN: There is a
22 similarity and a thread to this as far as even
23 what Bob Wilder is saying with The Marketplace.
24 It's a free-floating entity right now and no one
25 knows for sure from today to six months from now,
MICHELLE L. CONERO - (845)895-3018

1 86
2 from a year to now what may be concrete. It
3 reaches a point in the review process, whether
4 it's 2004 when The Marketplace comes forward and
5 we go through all these designs and all these
6 critiques as to what is currently happening in
7 2011. Stan is saying in 1999 there was one
8 concept. Here we are in 2011 and they're still
9 not sure of what 2012 could be like. How do we
10 minimize this recreating and recreating and
11 trying to bring some kind of closure to it?
12 Jerry?
13 MR. CANFIELD: Just a suggestion. I'm
14 in favor of either way it goes. It's not a
15 requirement of the Building Department, I'm just
16 trying to support the Planning Board's wishes in
17 this area. Another way to address this is
18 perhaps just include it -- Pat and I just
19 discussed, include it in the bulk requirements on
20 the drawings. The apartments, whether it be
21 one-bedroom or two-bedroom, it will comply with
22 the Zoning Ordinance. That's another mechanism
23 of enforcement.
24 MR. HINES: It needs to be updated
25 anyway, the bulk requirements.
MICHELLE L. CONERO - (845)895-3018

1 87
2 MR. SCHUTZMAN: No problem. That sort
3 of tracks what --
4 MR. CANFIELD: Just another way to
5 cover it.
6 CHAIRMAN EWASUTYN: Is that workable?
7 MR. DONNELLY: Sure.
8 MR. FOGARTY: Sure.
9 CHAIRMAN EWASUTYN: Do you want to
10 continue through, Mike?
11 MR. DONNELLY: Do you wish me to still
12 keep the language that says as part of the
13 Building Department review process? It's a given
14 it is anyway. I might as well keep the language
15 there. The next condition is no more than 108
16 non age restricted COs will be issued until the
17 affordable -- I'm sorry, until the age restricted
18 units are constructed and ready for occupancy.
19 There was always a condition that required
20 foundation staking for the buildings that were
21 close to the property lines. The Town needs an
22 easement authorizing the Town to enter onto the
23 lands to perform emergency utility repairs to
24 water and sewer lines. We'll tie into the
25 out-of-district sewer user agreement granted by
MICHELLE L. CONERO - (845)895-3018

1 88
2 the Town in 2000. This says, it was in the
3 earlier resolution, the plans shall not be signed
4 until final approval of the utilities, water,
5 sewer and stormwater plans by the town engineer
6 and the planning board engineer, and approval of
7 the Town of Newburgh Code Compliance Department
8 of the current plans for building and fire code.
9 The town highway superintendent has to approve
10 the erection of signs on Meadow Hill Road. We
11 have a requirement that you petition the Town
12 Board, under Vehicle and Traffic Law 1660-A, for
13 the authority to enforce vehicle and traffic and
14 other local code violations on the property. ARB
15 approval was granted in the past. We have the
16 standard condition on that. There will be a
17 landscape security and inspection fee required as
18 before. I believe the inspection fee amount was
19 \$4,000. A stormwater improvement security and
20 inspection fee.
21 Pat, does this require a stormwater
22 control facility maintenance agreement as well?
23 MR. HINES: It would now, yes.
24 MR. DONNELLY: That's a new condition.
25 That's a provision of the Code, 157-11 A. You'll
MICHELLE L. CONERO - (845)895-3018

1 89
2 take that up with Mark Taylor. A water main
3 extension security and inspection fee. A sewer
4 main extension security and inspection fee. The
5 Board's standard condition regarding the
6 installation of outdoor fixtures and amenities,
7 meaning you can't build anything that's not shown
8 on the approved plans. Finally, the payment of
9 multi-family fees of \$2,000 per dwelling unit.
10 If the arithmetic hasn't changed, that total is
11 \$322,000.
12 CHAIRMAN EWASUTYN: Are you satisfied
13 with that?
14 MR. SCHUTZMAN: Yes.
15 MR. ANNARUMO: I just have a question.
16 CHAIRMAN EWASUTYN: For the record,
17 your name?
18 MR. ANNARUMO: Tom Annarumo. On age
19 restricted active adult, it's 55? Someone told
20 me it might be 50, or is it still 55?
21 MR. DONNELLY: My understanding is it's
22 55. It's in the Code. Whatever the Code says.
23 MR. ANNARUMO: One person has to be 55
24 in the family?
25 MR. DONNELLY: Off the top of my head I
MICHELLE L. CONERO - (845)895-3018

1 90
2 don't remember the ins and outs. It's in the
3 Code.
4 CHAIRMAN EWASUTYN: Check the Code.
5 Check the Code.
6 MR. SCHUTZMAN: One person.
7 MR. ANNARUMO: One person. Thank you.
8 CHAIRMAN EWASUTYN: Any comments from
9 the Board Members?
10 MR. GALLI: Karen brought up a comment
11 before. You have mailboxes scattered throughout
12 the property. The mailman is not going to come
13 down a private road. Just so you know. You
14 should move them all up front.
15 CHAIRMAN EWASUTYN: Cliff Browne?
16 MR. BROWNE: Nothing.
17 MR. MENNERICH: Nothing.
18 MR. PROFACI: I'm good.
19 CHAIRMAN EWASUTYN: Tom?
20 MR. FOGARTY: I'm comfortable with the
21 108. I'm glad we came up with that solution.
22 That was a concern.
23 CHAIRMAN EWASUTYN: John?
24 MR. WARD: I said my comments. Thank
25 you.
MICHELLE L. CONERO - (845)895-3018

1 91
2 CHAIRMAN EWASUTYN: You want to come
3 back next month?
4 MR. SCHUTZMAN: For a Christmas party,
5 sure. Who's buying?
6 CHAIRMAN EWASUTYN: I'll move for a
7 motion from the -- Mike, this would be granting
8 approval --
9 MR. DONNELLY: Revised final site plan
10 approval.
11 CHAIRMAN EWASUTYN: I'll move for a
12 motion to grant final site plan approval to the
13 amended site plan for Golden Vista --
14 MR. SCHUTZMAN: Excuse me, Mr.
15 Chairman. I apologize. The issue of the
16 playground equipment, is that something that
17 we're required to specify or not?
18 CHAIRMAN EWASUTYN: Show some detail on
19 the final plans of what you're proposing to do.
20 Show some examples of what you're proposing to
21 install there.
22 MR. SCHUTZMAN: Okay. Even though that
23 might change as it goes?
24 CHAIRMAN EWASUTYN: We need to have
25 something as a base to what you're proposing.
MICHELLE L. CONERO - (845)895-3018

1 92
2 MR. SCHUTZMAN: Thank you.
3 CHAIRMAN EWASUTYN: Anything else?
4 MR. SCHUTZMAN: No. Sorry.
5 CHAIRMAN EWASUTYN: That's quite all
6 right.
7 I'll move for a motion to grant final
8 site plan approval for the amended site plan for
9 Golden Vista subject to the conditions in the
10 resolution and as presented by Attorney Mike
11 Donnelly.
12 MR. GALLI: So moved.
13 MR. FOGARTY: Second.
14 CHAIRMAN EWASUTYN: I have a motion by
15 Frank Galli. I have a second by Tom Fogarty.
16 Any discussion of the motion?
17 (No response.)
18 CHAIRMAN EWASUTYN: I'll move for a
19 roll call vote starting with Frank Galli.
20 MR. GALLI: Aye.
21 MR. BROWNE: Aye.
22 MR. MENNERICH: Aye.
23 MR. PROFACI: Aye.
24 MR. FOGARTY: Aye.
25 MR. WARD: Aye.
MICHELLE L. CONERO - (845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Myself. So
carried.
Thank you.
MR. DONNELLY: Can I clarify one thing?
Did we in fact grant ARB in the past?
MR. SCHUTZMAN: Yes.
CHAIRMAN EWASUTYN: I'll move for a
motion to close the Planning Board meeting of the
1st of December.
MR. GALLI: So moved.
MR. FOGARTY: Second.
CHAIRMAN EWASUTYN: I have a motion by
Frank Galli. I have a second by Tom Fogarty.
I'll ask for a roll call vote starting with Frank
Galli.
MR. GALLI: Aye.
MR. BROWNE: Aye.
MR. MENNERICH: Aye.
MR. PROFACI: Aye.
MR. FOGARTY: Aye.
MR. WARD: Aye.
CHAIRMAN EWASUTYN: And myself. So
carried.

MICHELLE L. CONERO - (845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Time noted: 8:31 p.m.)

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

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

DATED: December 26, 2010

MICHELLE L. CONERO - (845)895-3018