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

----- X

In the Matter of

VERIZON MICROWAVE ANTENNA
(2009-16)

Valley View Drive
Section 15; Block 1; Lot 10
R-1 Zone

----- X

PUBLIC HEARING

Date: December 17, 2009
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CLIFFORD RHODE

----- X

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

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MR. PROFACI: Good evening, ladies and gentlemen, and welcome to the Town of Newburgh Planning Board meeting of December 14, 2009.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. WARD: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

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

MR. COCKS: Bryant Cocks, Garling

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Associates, Planning Consultants.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

MR. WARD: I would like everyone to stand up and say the Pledge of Allegiance.

(Pledge of Allegiance.)

MR. PROFACI: Anybody who has cell phones, if you could switch them off now I'd appreciate it.

The first item on this evening's agenda is a public hearing for Verizon Microwave Antenna on Valley View Drive.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185-57 Section K and Chapter 168-16 Section A, on the application of Verizon Microwave Antenna for a site plan and

1 special permit for the installation of a
2 microwave antenna on the Valley View Drive cell
3 tower on premises Valley View Drive in the Town
4 of Newburgh, designated on town tax map as
5 Section 15; Block 1; Lot 10.0 in the R-1 zone.
6 Said hearing will be held on the 17th day of
7 December at the Town Hall Meeting Room, 1496
8 Route 300, Newburgh, New York at 7 p.m. at which
9 time all interested persons will be given an
10 opportunity to be heard. By order of the Town of
11 Newburgh Planning Board. John P. Ewasutyn,
12 Chairman, Planning Board Town of Newburgh. Dated
13 November 20, 2009."

14
15 MR. GALLI: The notice of publication
16 was published in The Mid-Hudson Times on November
17 25th and in The Sentinel on the 24th. All the
18 mailings are in order.

19 CHAIRMAN EWASUTYN: At this time I'll
20 turn to Mike Donnelly, our Planning Board
21 Attorney, to talk to us as far as the purpose of
22 a public hearing.

23 MR. DONNELLY: We have one public
24 hearing this evening, it's on the Verizon
25 Microwave Antenna application. This is a public

1 hearing to address the special permit portion of
2 the approval. The purpose of the public hearing
3 is for you, the members of the public, to bring
4 to the attention of the Planning Board any
5 information that the Planning Board may not have
6 discovered on its own or through the advice of
7 its consultants. After the applicant gives the
8 presentation of the proposal, the Chairman will
9 ask anyone from the public that wishes to address
10 the Board to raise your hand. When recognized we
11 would ask you to please give your name, spelling
12 it if you would for our Stenographer, and give us
13 your address so we have some idea where you live
14 in relation to the project. Please address your
15 comments to the Board. If you have questions,
16 the Chairman will direct them, if appropriate, to
17 either a Town consultant or to the applicant's
18 representative.

19
20 CHAIRMAN EWASUTYN: Thank you.

21 Mr. Rhode.

22 MR. RHODE: Thank you, Mr. Chairman,
23 Members of the Board. Thank you again for having
24 me here tonight. For better or worse, this may
25 be one of the last times for awhile I'll be

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before the Board, but it is a pleasure to be here.

My name is Clifford Rhode, I'm with the law firm of Cooper, Erving & Savage out of Albany and we represent Verizon Wireless, or more specifically Orange County Poughkeepsie Limited Partnership doing business as Verizon Wireless.

We presented the application initially to the Board at the November, I believe, 19th meeting of the Board. Since that time we received the proper notice to send out to a list of adjainers that was provided to us by Bryant Cocks. I would like to provide the receipts to the Board.

CHAIRMAN EWASUTYN: Give them to Frank Galli, please.

MR. RHODE: Absolutely. Those were mailed out in a timely fashion pursuant to Town code.

As the Board is aware, Verizon Wireless is before the Board seeking special use and site plan approval to install what we consider to be very much a win-win facility. It is the co-location of one microwave dish antenna on an

1 existing tower. The tower is owned by Crown
2 Castle. Verizon Wireless already has some of its
3 other antennas on the tower. The tower is
4 approximately 148 feet tall, and Verizon Wireless
5 is proposing to install its antenna at a level of
6 approximately 100 feet. So there is absolutely
7 no change in tower height being proposed. There
8 is no proposal to do anything on the ground
9 either. This is strictly the attachment of an
10 antenna with cabling from the antenna to our
11 equipment shelter.
12

13 The antenna is necessary to enable
14 Verizon Wireless to facilitate communications
15 within its network. Specifically it will be
16 pointing at another microwave antenna in the Town
17 of Montgomery. It is a very efficient, flexible
18 way of allowing communications throughout Verizon
19 Wireless' network.

20 As the Board has previously been
21 informed and in the materials submitted to the
22 Board, structural reinforcement to the tower will
23 be required. Generally speaking, this is
24 additional or larger diagonal braces between the
25 legs of the tower, pretty much would be invisible

1 to the naked eye from any reasonable distance.
2
3 The difference in size of the bracings is roughly
4 one-sixteenth of an inch to perhaps a a quarter
5 of an inch.

6 We believe that we've submitted
7 everything we need to the Board for its
8 consideration. We'll be happy to answer any
9 questions again that the Board may have or that
10 any members of the public may have.

11 CHAIRMAN EWASUTYN: At this point we
12 would like to open up the meeting to the public.
13 If anyone has any questions or comments, please
14 raise your hand and give your name and your
15 address.

16 (No response.)

17 CHAIRMAN EWASUTYN: Okay. Let the
18 record show that there's no interest from the
19 public at this time.

20 I'll turn to our consultants for their
21 final review. Bryant Cocks, Planning Consultant?

22 MR. COCKS: We have no formal review
23 for this application. We did forward this to the
24 Orange County Planning Department and we did
25 receive a local determination with no comments

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from them. At this point we have nothing further.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have nothing outstanding on this. Just to note the Town does have a tower consultant who did review it, the structural and the radiofrequency items that he does review, and I know the Board received a letter from him identifying those findings.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: We have nothing further. Again, we referred to the tower consultants the tower report on the structural analysis which all came back favorable.

CHAIRMAN EWASUTYN: I'll turn to Planning Board Members. Frank Galli?

MR. GALLI: No additional comments on it.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

MR. PROFACI: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Any additional

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interest from the public at this time?

(No response.)

CHAIRMAN EWASUTYN: There being no interest from the public, I'll move for a motion to close the public hearing on the Verizon Microwave Antenna.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to give us the conditions mentioned in the resolution.

MR. DONNELLY: I prepared a resolution

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of site plan and special permit approval. I've incorporated the recommendations of the Town's wireless consultant as conditions in the resolution.

Firstly, the applicant may only build the dish antenna shown. This is the ARB portion of your approval. Next, a requirement that the dish antenna, the security fencing around the ground-based equipment as well as the required warning signs should be routinely inspected and maintained by the applicant, tower owner and other wireless providers. There's a requirement of a coordination of the annual NIER level testing which is required to be delivered to the Town on an annual basis. The tower and the transmitting equipment may not be enlarged, extended or power increased without further approval of the Board. Finally, no equipment or structures not shown on the plans may be built without amended approval from the Board.

CHAIRMAN EWASUTYN: Before I turn to the Board Members; Frank, did you have a chance to review the mailing?

MR. GALLI: Yes, I did.

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VERIZON MICROWAVE ANTENNA

CHAIRMAN EWASUTYN: And would you report to the Board?

MR. GALLI: You want the count? Three were returned not signed for, one was delivered unmailable and eighteen were returned signed.

CHAIRMAN EWASUTYN: Thank you. Having heard the conditions of approval presented by Attorney Mike Donnelly for the Verizon Microwave Antenna, I'll move for that motion to approve it.

MR. WARD: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

Thank you.

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MR. RHODE: Thank you very much.

CHAIRMAN EWASUTYN: You could speak with the building department tomorrow as far as proceeding with a building application. You'll coordinate that with Jerry Canfield.

MR. RHODE: Right.

CHAIRMAN EWASUTYN: Thank you.

MR. RHODE: Thank you very much. I do want to thank the Board for their courteous and very professional attention to us. It's very much appreciated.

(Time noted: 7:12 p.m.)

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

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

DATED: January 6, 2010

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

----- X

In the Matter of

BERLIN, L.L.C.
(2006-30)

Route 17K and Skyers Lane
Section 89; Block 1; Lot 32
B Zone

----- X

SITE PLAN

Date: December 17, 2009
Time: 7:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JAMES YASTION

----- X

MICHELLE L. CONERO
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BERLIN, L.L.C.

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MR. PROFACI: The next item on the agenda is Berlin, LLC on Route 17K and Skyers Lane, it's a site plan review and being represented by John Queenan.

MR. YASTION: James Yastion from Bluestein, Shapiro --

CHAIRMAN EWASUTYN: Do you have a business card?

MR. YASTION: I don't but I can --

CHAIRMAN EWASUTYN: Then can you give the spelling of your last name for the Stenographer?

MR. YASTION: Yes. Y-A-S-T-I-O-N, Bluestein, Shapiro, Rich & Marone. Would you like the spelling?

THE REPORTER: No, thank you.

MR. YASTION: Mr. Chairman, an amended resolution had been prepared by Mr. Donnelly. We've had a chance to review that and approve it. I would just ask that the amended resolution be adopted by the Board.

CHAIRMAN EWASUTYN: For the record Mike, would you --

MR. DONNELLY: Again in context, the

1 original resolution had had language that
2 apparently suggested that the DOT had a comment
3 regarding driveway access where the intent of the
4 resolution was only that it be an option. I
5 revised that condition, and it's condition 8 of
6 the resolution, the resolution is otherwise
7 unchanged, to read as follows: The proposed
8 direct driveway access to Route 17K has been
9 approved in concept by the New York State
10 Department of Transportation. An adjoining
11 property owner (Gateway Commons) is proposing an
12 entrance way to Route 17K in close proximity to
13 this site making additional indirect access to
14 this site possible. The applicant has agreed
15 therefore that following construction of the
16 Gateway Commons' access way it will discuss with
17 Gateway Commons, with the DOT and with the
18 Planning Board the possibility of constructing a
19 cross access way between the parcels through
20 which access to this site may be provided through
21 the Gateway Commons access way. The Planning
22 Board agrees that it shall review any amended
23 site plan the applicant may submit in the future
24 in this regard. This condition is not intended
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BERLIN, L.L.C.

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to require a future interconnection, nor to require closure of the applicant's direct access to Route 17K in the event the interconnection is constructed. Should the interconnection be proposed in the future, the Planning Board shall consider all alternatives proposed including continuation of full direct Route 17K access or direct access with restricted turning movements. All of the other conditions of the resolution are the same.

CHAIRMAN EWASUTYN: Comments from Board members. Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

MR. PROFACI: Nothing.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Nothing additional.

MR. HINES: We have nothing.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Nothing.

CHAIRMAN EWASUTYN: Karen?

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BERLIN, L.L.C.

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MS. ARENT: No comment.

CHAIRMAN EWASUTYN: Having heard the changes to the resolution for the Berlin, LLC site plan, I'll move for a motion to adopt the resolution.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

(Time noted: 7:19 p.m.)

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

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

DATED: January 6, 2010

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

----- X
In the Matter of

SHOPPES AT UNION SQUARE
(2007-05)

Route 300 and Orr Avenue
Section 96; Block 1; Lot 6
IB Zone

----- X

CONDITIONAL FINAL APPROVAL

Date: December 17, 2009
Time: 7:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ADRIAN GODDARD &
BRIAN WASNER

----- X

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SHOPPES AT UNION SQUARE

MR. PROFACI: The next item on our agenda is the Shoppes at Union Square at Route 300 and Orr Avenue, conditional final approval, represented by Adrian Goddard.

MR. GODDARD: He'll give the presentation if that's okay with you.

MR. WASNER: Good evening, ladies and gentlemen, Members of the Board. Thank you very much. My name is Brian Wasner from Langan Engineering. I'm the civil engineer for the project.

If it pleases the Board, I'll just spend a few minutes running through the changes since the last time we were here that have addressed, or we believe have addressed the consultants' comments.

We worked with Karen to change some of the plant species to make sure they're native plant species, soften some of the perimeters of the building with variations of different kinds of plant materials. We've also created a planting area -- excuse me, a seating area in front of the Shop Rite for use by employees as well as the adjacent bus stop there. We've

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sheltered that with some additional landscaping and a planter as well.

On our site plan, which is part of our submission set, we've identified a potential outdoor display area. It's limited to a four-foot depth off of the building. So we maintain a large sidewalk in front of the building for pedestrians walking in and around the site.

The only other major item that I would point out is in working with Pat Hines we've modified the crossing back here to eliminate the fifty-four inch pipe that currently is crossing that driveway, putting in a larger culvert. We've also agreed to provide a bridge crossing here in lieu of a culvert, and that would provide even more passageway for the water to come through in an extreme flood storage event.

There are a lot of very minor changes and adjustments to the plan. I've outlined those in a letter to the Board point by point going through some of the consultants' comments as well as the Board's comments from last time. I don't wish to waste everyone's time reading those or going through those but I think I've represented

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SHOPPES AT UNION SQUARE

the largest, most significant items.

I'd be happy to answer any questions or comments that you have.

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

MR. HINES: We've reviewed the stormwater management plan as the applicant's representative just stated, and we suggested some modifications that have been incorporated into the plans to address the drainage issues that were identified.

We also provided a letter to the Orange County Planning Department in response to their November 13th letter that was sent to the Board on the 24th of November. Our letter detailed how the Board, and our office, and the applicant's consultants have addressed each of the items identified in the Planning Department's comments, most of which had to do with drainage impacts, wetland impacts, the identification of a flood plain on the site that we researched and found does not exist.

As was just discussed, the stream

1
2 crossings were addressed on the site.

3 The project being in the City of
4 Newburgh's watershed has also been addressed
5 through implementing additional stormwater
6 management practices on the site, including
7 treating 110 percent of the water quality volume
8 rather than the normal 100 percent of the water
9 quality volume required. That's consistent with
10 what the City of Newburgh has asked for on other
11 projects in their watershed, and that's been
12 replicated on this site. So we believe the
13 stormwater comments -- our comments have been
14 addressed, and we've addressed the County's
15 comments in a letter to David Church's office.
16 In addition we provided him with a copy of our
17 October 9th memo to the Chairman which outlined
18 how our office has reviewed and worked with the
19 applicant's representative on the stormwater
20 issues on the site.

21 Our other technical issues have been
22 addressed regarding the utilities.

23 There's a requirement -- there's a
24 couple outside approvals that are required after
25 this meeting, including a DEC permit for the

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SHOPPES AT UNION SQUARE

stream crossing because the stream is a class A stream tributary to Washington Lake via a diversion channel the City of Newburgh can open and close.

There's an Army Corp wetlands permit for a minor encroachment on the site.

There's an issue of whether or not the Health Department will review the water main as a main extension or as a non-community water system, and that approval will be required prior to a final sign off from our office.

CHAIRMAN EWASUTYN: Any comments from Board Members. Frank Galli?

MR. GALLI: From the Orange County Planning Department's view we're okay now with the --

MR. HINES: I've provided a point-by-point response to their comments on how the Board has addressed it. Again, this project has been before the Board for several years, so we've gone through a pretty extensive review, some changes to the plans, and I just wanted to address each of the comments. Some of their comments were the stormwater management plan should be provided.

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SHOPPES AT UNION SQUARE

We're on our probably fourth or fifth version of the stormwater management plan on the site. The applicant's representative has addressed our previous comments.

I did want to -- there was pretty extensive comments but I wanted to provide that to the County showing how the Board's process has worked up to date.

MR. GALLI: We answered all their questions so we're okay with that?

MR. HINES: Yes. Their mandatory comments had to do mostly with the drainage items, and their response was that -- their final was that they recommend that the Town assess the following comments, and they've itemized those comments and I've addressed each of those comments in a letter back to the County.

MR. GALLI: Thank you.

MR. MENNERICH: I have no questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing right now.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Nothing.

CHAIRMAN EWASUTYN: Jerry Canfield,

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SHOPPES AT UNION SQUARE

Code Compliance?

MR. CANFIELD: I have nothing further.

CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant?

MR. COCKS: Just a small note. If you
can add the date that the variances were granted.

Also, could you just explain to the
Board, we saw that there's a note on the plan for
the outdoor display of merchandise. Would you
just explain if that's going to be a seasonal
thing or if there's always going to be stuff out
there?

MR. WASNER: The outdoor seating area
will probably be a seasonal thing.

MR. COCKS: No. The outdoor display of
merchandise.

MR. WASNER: I perceive it's going to
be a seasonal thing. They might have holiday
wreaths during the winter and flowers in the
spring and that sort of thing. If it pleases
everyone, I can add that it's a seasonal display,
it's not a permanent display as a note.

CHAIRMAN EWASUTYN: Mike Donnelly?

MR. DONNELLY: We had included in the

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SHOPPES AT UNION SQUARE

preliminary resolution a requirement that you give us a more concrete proposal. What we've typically done in resolutions is two things. There are actually two different animals here. One is outdoor storage, and there there's a specific code provision. I want to make sure you understand that if there's going to be outdoor storage of merchandise there you'll have to comply with the code. That would include an eight-foot high opaque fence and a number of other things. If we're only talking about display of merchandise for sale, then typically the conditions the Board has required would be that the sales take place inside, not on the sidewalk, that nothing be blocking the pedestrian ways, the pedestrian access ways remain available at all times, and usually we ask for some definition of what the season is and ask that that be shown on the plan. We have on other occasions where applicants have identified five holidays but then had the summer season or something like that where they know they would have outdoor displays. We've allowed that from date A to date B, and I think the Planning Board has felt that a workable

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SHOPPES AT UNION SQUARE

way to give you what you need to satisfy your tenant but not have a bizarre in the parking lot all year round where fire exits are blocked and that type of thing. One of the requirements of the preliminary approval is you kind of put the meat on the bones of that, and we haven't seen that. If we haven't told you that sooner, I'm sorry. We need to have that pinned down so we can make sure there's some restriction on that. I don't know how you can handle that at this point.

MR. GODDARD: Let's see.

MR. DONNELLY: I take it --

MR. GODDARD: The first few items you mentioned obviously are not an issue, blocking the sidewalk, having the sales take place inside, et cetera, et cetera. And stipulating that the items are seasonal and not stored outside is also not an issue. I'm not clear how to define what seasonal means, though. I mean they may have plants outside in the summer and, you know, wreaths outside in the winter. If you have a suggestion about how to define that.

MR. WASNER: Our attempt at putting

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SHOPPES AT UNION SQUARE

more meat on the bones was to limit it to a very specific four-foot wide area right against the building, outside on the sidewalk right next -- between the two entrances. So our attempt right, wrong or indifferent was to limit it to a very small specific area. Our thought was so you don't have a bizarre blocking the sidewalk and a large circulation problem around the area.

CHAIRMAN EWASUTYN: Jerry Canfield, I think you would be the good person to call on as far as any issues you think may arise from what we'll call an open seasonal display as far as any enforcement or problems. Can you think of any?

MR. CANFIELD: The section of the code I think Mike is referring to is 185-30, and it's pretty specific with respect to what's accessory to the building as far as the commodity or the item to be sold outside. A four square foot area is a very minimal area for the surface area of the front of this building. Enforcement of this could be easily done with the fire inspector's office or the building inspector's office with respect to blocked exit ways, of course which is a huge no-no, something that we would really take

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very seriously.

This particular area is very restricted because if there's excessive storage it will be out in the roadway.

Like I said, my best advice to the Planning Board would be that we could easily enforce anything excessive there just basically on the physical confines of the building. If it is excessive you're either going to block an entrance way or exit way or a vehicle roadway, which regardless of the site plan provisions are enforceable just by the building and the fire code. If that helps the Board in any way.

MR. GALLI: I think what Jerry is saying is, you know, it's only a four-foot space so there's not much you're going to put there to start with. They're probably going to have plants in the springtime and Christmas holiday stuff in the wintertime and whatever they put out there like the rest of the supermarkets do around town. They take them in and put them out and sell them. I don't think it will be an issue but I think there should be something noted somewhere that they're seasonal items and not something

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SHOPPES AT UNION SQUARE

that stays out there year round, like pallets of water and things like that.

MR. GODDARD: We can certainly do that. We'll stipulate they're seasonal items. I don't think that's a problem at all.

MR. WASNER: To be clear, it's not a four-foot square area. It's four foot off the building.

MR. GALLI: Right.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I think, you know, seeing how other grocery stores have operated in the area, that type of seasonal display basically goes on all year round, it's not a set number of months. I don't see a problem with it. I think in the places I've seen it works very well.

I think what would not work well is if it turns out to be an area where you have pallets full of water or firewood or something like that where, you know, it just doesn't look nice.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: The area where this is proposed, is that all windows -- in front of windows of the building?

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SHOPPES AT UNION SQUARE

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MR. WASNER: I think there are some. You have to forgive me, I'm not the architect here. No. There's very limited windows in that area. The windows are predominantly along the main atrium space in the front.

MR. PROFACI: Where is the storage space or the outside --

MR. WASNER: The main atrium. This is the secondary entrance/exit, and the storage area is right in between the two.

MR. GODDARD: The outdoor sales.

MR. WASNER: The outdoor display area.

MR. PROFACI: I agree with Ken, I think these things kind of take care of themselves. Obviously the store is not going to want a mess out there either. The actual wording I'll leave to Mike.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Basically we're all hitting the same nail. Having seasonal, whether it's Mother's Day, Christmas, whatever, as long as it's stated what it's going to be and confined to that area. Thank you.

CHAIRMAN EWASUTYN: Does that help you,

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SHOPPES AT UNION SQUARE

Mike?

MR. DONNELLY: What I will do then is I will say that any outdoor storage must comply with the restrictions of the code section. Outdoor display will not be limited as to time but it will be limited both in terms of keeping the pedestrian access ways open, meaning the display for sales can only take place in the designated area. And secondly, that all sales must take place inside the store.

CHAIRMAN EWASUTYN: Bryant Cocks, anything else at this time?

MR. COCKS: That was all.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: I only have comments regarding the architecture.

MR. WASNER: Actually, I have correspondence from the architect. I believe your question was regarding the color of the screening material?

MS. ARENT: On the rear facade.

MR. WASNER: The intent is that all the color -- the color on all four sides will be the

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SHOPPES AT UNION SQUARE

same. Just from the artistic rendering, when the screen was shown setback it was shown in a shadow. It's not intended to be different colors. It's intended to be the same.

MS. ARENT: He should revise the plan, though --

MR. WASNER: Okay.

MS. ARENT: -- because I think most of -- all the screens are setback. It's not shown like that on the other elevations.

MR. WASNER: Okay.

MS. ARENT: That would be fine. Thank you.

CHAIRMAN EWASUTYN: At this point I'll turn to Mike Donnelly to give us conditions of approval for the Shoppes at Union Square in the resolution.

MR. DONNELLY: As you know, you had granted a preliminary approval in October, so this resolution tracks the conditions of that approval. I had sent a draft copy to the applicant's representatives earlier. There had been some changes based upon tonight's discussion. Originally there was a listing of

1 items that needed to be given further plan
2 details before site plan approval could be final,
3 and the only one that remained on that list when
4 we started our meeting this evening was the plan
5 for limiting outdoor storage display of
6 merchandise, and we've just covered that one.

7
8 There are a number of other agency
9 approvals that still remain outstanding. They
10 come from the original resolution. They must be
11 obtained from the Town of Newburgh engineer, the
12 Town of Newburgh Water Department, the Orange
13 County Department of Health for the water main
14 extension, the DEC for SPDES and stream crossing
15 permits, the DOT for the roadway connection, and
16 the U.S. Army Corp of Engineers wetlands permit.
17 They will all be required to be obtained before
18 the plans can be signed. We ask that the
19 applicant copy the Planning Board on all of its
20 correspondence with those agencies as you
21 continue to pursue those.

22 We'll make reference to the second
23 variance granted by the Zoning Board of Appeals
24 and include any conditions of it within our
25 resolution of approval.

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SHOPPES AT UNION SQUARE

I went over the outdoor storage and display conditions a moment ago.

There's a requirement under the code that the landscaped areas on the site be maintained in accordance with a comprehensive maintenance plan. Similarly the parking lot must be maintained.

We had asked in the original approval that you provide to the Town Board a petition, using that word loosely, authorizing the Town of Newburgh Police Department to enforce Vehicle and Traffic Law violations within the shopping center itself.

And lastly, there will be a series of financial security and inspection fees due to the Town before the plans can be signed. That includes landscape security, stormwater security and an inspection fee in each case. Water main extension security and inspection fee if required by the Health Department. A sewer main extension and security fee. Lastly, the requirement that we include in all our resolutions that you may not construct anything on the site that is not shown on the plans without further approval of

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SHOPPES AT UNION SQUARE

the Planning Board.

CHAIRMAN EWASUTYN: Any comments from our consultants in reference to the resolution presented by Mike Donnelly. Jerry Canfield?

MR. CANFIELD: Nothing further.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Nothing additional.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: No.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: I have nothing additional.

CHAIRMAN EWASUTYN: Board Members.

Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: At this point I'll move for a motion to approve the Shoppes at Union Square subject to the conditions that were presented in the resolution by Attorney Mike Donnelly.

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SHOPPES AT UNION SQUARE

MR. WARD: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward. I have a second by Frank Galli. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Karen, do you want to discuss anything further as far as the ARB? Would this be an amendment to the approval?

MS. ARENT: I guess it would be an amendment for them to just provide --

CHAIRMAN EWASUTYN: Can you speak out loud?

MS. ARENT: Amended approval conditioned upon a revised Shop Rite drawing showing the facade and screening the same color

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SHOPPES AT UNION SQUARE

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on the rear as the rest of the building.

CHAIRMAN EWASUTYN: Okay.

MR. WASNER: No problem.

MR. DONNELLY: I'll include a condition that Karen has to give you a sign-off letter.

CHAIRMAN EWASUTYN: I'll move for a motion then to adopt the amended resolution for the ARB for the Shop Rite building as it relates to the screening of the mechanicals on the roof and the consistency of color of that screening material.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So

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SHOPPES AT UNION SQUARE

carried.

MR. GALLI: John, item number 2 for Bryant, do we have to vote on that separate?

CHAIRMAN EWASUTYN: No. I think we have the majority vote from the Board itself.

Right, Mike?

MR. DONNELLY: You're talking about the General Municipal Law? I think what Pat discussed earlier is we're not overruling, we're complying by showing how the issues they raised are addressed. We'll recite that within the resolution. In any event, you had five votes so it's not important.

CHAIRMAN EWASUTYN: Thank you.

MR. GODDARD: I just wanted to thank you guys very much. I appreciate you working with us. Thank you.

(Time noted: 7:37 p.m.)

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

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

DATED: January 6, 2010

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

----- X
In the Matter of

LANDS OF MATIKIEWICZ
(2002-73)

Abandonment of Filed Map and Rescindment of
Resolution for a Lot Line Change

----- X

BOARD BUSINESS

Date: December 17, 2009
Time: 7:37 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO
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LANDS OF MATIKIEWICZ

MR. PROFACI: We have a few items of Board Business. First is a discussion of the Lands of Matikiewicz. Mike Donnelly will discuss the abandonment filed map and rescind resolution for a lot line change filed on May 20, 2009.

MR. DONNELLY: As we discussed earlier during the work session, this applicant received an approval in the nature of a lot line change approval among three property owners in 2003. For a number of reasons the map that would accomplish that lot line change was not filed until earlier this year, in May. That has its own history that I won't repeat. The applicants now wish to abandon that subdivision. They no longer wish as a group to adjust their property line. There is a statutory provision for abandoning a subdivision, however it's only permissible to do it in an informal fashion when the subdivision itself is more than five years old. This one is obviously not more than five years old because the filing only took place in May. Therefore, when we superimposed the interpretation of the court that all lot line changes are in fact now subdivisions under the

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Town of Newburgh code, to accomplish the result the applicants wish they need to get subdivision approval. They would need to submit to the Board a new proposed subdivision plat. It would be very similar to one earlier approved, however what was earlier shown as existing lot lines and proposed lot lines would of course be reversed because we're returning this to the way it was when this began in 2003. Because it's a subdivision and no public hearing was held on the lot line change, you would also need to hold a public hearing before you could grant approval.

If you would like, since we discussed it at work session, I can send a letter to that effect to the applicant's attorney, Carl Darrigo, and they can take the process from there.

CHAIRMAN EWASUTYN: Is the Board in agreement with that?

MR. GALLI: Yes.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Mike, would you outline the fact that we would need an

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LANDS OF MATIKIEWICZ

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application fee, a public hearing fee, an escrow
fee.

(Time noted: 7:40 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: January 6, 2010

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

----- X
In the Matter of

LANDS OF ZAZON
(2004-29)

Rescindment of Final Approval and
Reissuance of Preliminary Approval

----- X

BOARD BUSINESS

Date: December 17, 2009
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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MR. PROFACI: The next item is Zazon. It's to rescind a final approval and reissue preliminary approval. Final approval expired on December 8, 2009.

MR. DONNELLY: As you know, if you want me to start, in the past where applicants were unable to satisfy the conditions of a subdivision approval within the outside limit of 360 days, we've allowed those applicants to surrender their final approval and return to preliminary approval status and then grant an extension of that approval because that has no time duration on it.

The applicant made that request before the conditional final approval expired even though it has expired as of tonight's date. I believe it's fair and appropriate that because the request was made before expiration of the time period, that it would be permissible for you to grant that relief in this case.

I think what you should do is vote on a motion to accept surrender of the conditional final approval, to return the applicant to preliminary approval status and extend that for an appropriate period, like six months.

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LANDS OF ZAZON

CHAIRMAN EWASUTYN: Having heard the conditions presented by Mike Donnelly for the letter that we received for Zazon application 2004-29, to basically rescind their conditional final approval and to reissue preliminary approval, I'll move for that motion.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci and a second by John Ward. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

MR. DONNELLY: I suggest we carry that and extend it to June 17th, which would be six months from tonight.

CHAIRMAN EWASUTYN: Very good. Thank

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LANDS OF ZAZON

you.

(Time noted: 7:42 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: January 6, 2010

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

----- X

In the Matter of

MASTER DEVELOPERS
(2005-53)

Reissuance of Final Approval

----- X

BOARD BUSINESS

Date: December 17, 2009
Time: 7:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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MASTER DEVELOPERS

MR. PROFACI: The next item under Board Business is Master Developers, a reissuance of final approval. The map was never filed with the County. Plans were signed on January 19, 2007.

CHAIRMAN EWASUTYN: Mike, do you want to go through this?

MR. DONNELLY: Yes. This is an approval that was granted for a subdivision in July of 2006. Somehow, and the applicant hasn't given a full explanation but it was obviously somebody dropping the ball, the map which was actually signed by the Chair and released to the applicant was not filed. Because the 360 day period has run, the approval is no longer valid. Because the map was signed two years ago, the Orange County Clerk's office won't accept it for filing.

My recommendation is that because nothing has changed in the area, that you reapprove the subdivision as of tonight. The applicant will need to submit a new currently dated plan which the Chair can sign and then can be filed in the clerk's office. I've prepared such a resolution. It carries all of the

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MASTER DEVELOPERS

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conditions that the original resolution of approval carried. I don't need to recite them all but they were fairly standard.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to approve the reissuance of a final subdivision map for Master Developers to be reviewed by Bryant Cocks and then to receive the necessary approval for the Chairperson to sign.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 7:44 p.m.)

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

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

DATED: January 6, 2010

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

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In the Matter of

LONG VIEW FARMS (SUMMER KIM PHASE II)
(2006-39)

Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: December 17, 2009
Time: 7:44 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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LONG VIEW FARMS

MR. PROFACI: The final item under Board Business is Long View Farms, Summer Kim Phase II, extension of preliminary approval which expires on January 14, 2010. The applicant is requesting an extension until July 14, 2010.

CHAIRMAN EWASUTYN: For the record, I would like to also include a letter received from Tom DePuy in reference to his client.

Does anyone have a copy of that with them? I'll make that part of the note.

Bryant, do you want to read that out loud, please?

MR. COCKS: Sure. Preliminary subdivision approval for the above-noted project expires on January 14, 2010. We're requesting approval extension from the Planning Board. We're requesting to be placed on the next available Planning Board agenda to obtain an extension. Thank you.

CHAIRMAN EWASUTYN: And that's written by who?

MR. COCKS: Thomas DePuy, P.E.

CHAIRMAN EWASUTYN: The motion before us is to approve the extension of Summer Kim.

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LONG VIEW FARMS

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How is that pronounced, Ken?

MR. MENNERICH: This one?

CHAIRMAN EWASUTYN: Cara Corp.,
application number 2006-39. I'll move for a
motion to extend the preliminary approval to July
14, 2010.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by
Joe Profaci and a second by John Ward. Any
discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

I'll move for a motion to close the
Planning Board meeting of December 17, 2009 and
wish everyone a happy holiday and a good new
year.

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LONG VIEW FARMS

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye myself. Thank you.

(Time noted: 7:45 p.m.)

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