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

----- X  
In the Matter of

ROUTE 300 CENTER  
(2012-05)

1413 Route 300  
Section 60; Block 3; Lots 40 & 41.22  
IB Zone

40,2

----- X

SITE PLAN

Date: November 1, 2012  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
JERRY CANFIELD

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO

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

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MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of November 1, 2012.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh, Code Compliance Department.

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

MR. COCKS: Bryant Cocks, Planning Consultant.

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MR. PROFACI: Thank you.

At this time I'll turn the meeting over to Tom Fogarty.

MR. FOGARTY: Would everyone please rise for the Pledge of Allegiance.

(Pledge of Allegiance.)

MR. FOGARTY: Would you please turn off your cell phones. Thank you.

MR. PROFACI: The first item on tonight's agenda is Route 300 Center, project 2012-05, located at 1413 Route 300, section 60; block 3; lots 40 and 41.22, located in the IB zone. It's a site plan represented by Timothy Onderko, or someone else.

MR. CAPPELLO: John Cappello, actually, with Jacobowitz & Gubits. Tim is on his honeymoon.

We were here a few months back. The proposal is for property directly adjacent to the Newburgh Mall on Route 300. What we're looking to build is a ten-station gas station run by Stop & Shop with a 120 square foot kiosk. Stop & Shop generally builds these on the sites where Stop & Shop supermarkets are. The Stop & Shop

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supermarket on 300 just doesn't have enough room, so they have located the property here to do a ten-station facility. Stop & Shop usually offers points when you buy groceries there that you can redeem for lower priced gas.

So that would be the front of the site.

Also located on the site, we're proposing a 5,425 square foot Somerset tire service center. That would be located to the rear of the site.

You may recall, in our original proposal we also had a 6,000 square foot plus building that we were reserving for a bank. That's become a little more, you know, up in the air. So the developers have proposed not to construct that at this time and just to build the first phase. At the time when we have more detailed knowledge about if we have a tenant and who that tenant would be, we would come back to the Planning Board for site plan review for that.

MR. DONNELLY: What's the size of the building you are building now?

MR. CAPPELLO: This one is 5,425.

MR. DONNELLY: It's over 4,000, it's

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still unlisted. Okay.

MR. CAPPELLO: Yes. Since the last meeting the major change to the site is one we have now provided you with a detailed site plan approval. Last time we were here we were just here for a concept review. So the detailed plans are before you, which includes the grading plan, the stormwater drainage plan, some traffic analysis and all the other details necessary for the plan.

The changes to the site, we also -- we went to the ZBA, received a variance. We needed one because this property is located less than 1,000 feet from an existing gas station. In the Town of Newburgh you can't have two gas stations within 1,000 feet of each other. We did get relief from the ZBA from that requirement and also received a variance from the ZBA related to signage.

Also, since the last time time we saw you, we were able to obtain a permit through the Army Corp of Engineers to build an access road. It would only be a one-way access, 18 feet in width, to the rear access road to the Newburgh

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Mall. The property does have an easement over this property. We didn't know if we'd be able to build it because of the wetlands issues. We were able to obtain a permit to construct at least an 18 foot wide driveway, and that would be one way so people would be able to leave the site -- instead of making a left-hand turn across 300, would be able to leave the site, go back through the mall, come out on Meadow Hill and make a left turn at the light. So that's the, you know, major revisions, like I said, other than the detailed, the landscaping and all the other details.

Really what we're here kind of is to reintroduce the project, obtain any comments from the Board and the Consultants, and then, based upon that, see how you would like to proceed and move forward with this.

CHAIRMAN EWASUTYN: Thank you, John. I'm going to open up the meeting with some important information for you to consider that we discussed at the work session. I'll have Jerry Canfield and Mike Donnelly talk to you about the proposed 18 foot wide access road.

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Gentlemen.

MR. DONNELLY: I'll start. It's in Ken Wersted's memo. There's a section of the code, 185-28, it's among the special provisions relating to certain uses, and it requires for all entrance and exit driveways for gasoline service stations, that the minimum width is 25 feet. It's not a waivable requirement by the Planning Board, and it seems, from the wording, to apply not to just driveways or two-way driveways but to entrance driveways and exit driveways. So I think it has application here. You either need to widen that or perhaps return to the Zoning Board for a further variance. Look at the section. Maybe there's a way to read it differently than what we see.

MR. CAPPELLO: I will take a look but I can tell you unfortunately I think we'd have to go back to the ZBA because while we could explore the possibility, I also saw Mr. Wersted's memo going to 25 feet. To go to 25 feet, just the level of disturbance, given the Army Corp's permitting, would put us into a different level of review which would make it time prohibitive

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and cost prohibitive to build the driveway. So, you know, I will go back.

MR. DONNELLY: It may be some part of your rationale as to why a variance is appropriate.

MR. CAPPELLO: Exactly. I didn't think we could do that but hopefully we can move forward with, you know, the other comments and do it simultaneously.

MR. DONNELLY: Sure.

CHAIRMAN EWASUTYN: Jerry, do you have anything to add to that?

MR. CANFIELD: No. Basically, John, the last time you were here we didn't see that entrance drive.

MR. CAPPELLO: Right. We didn't know if we could do it at all.

MR. CANFIELD: Because it's a section of 185 zoning, it's something this Board doesn't have the authority to grant a waiver for. It's only the Zoning Board that can do that.

MR. CAPPELLO: That's, you know --

MR. CANFIELD: It does make you a good candidate with your concern with the Army Corp of



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Engineers.

CHAIRMAN EWASUTYN: Pat Hines, Drainage  
Consultant?

MR. HINES: I think it's a safety  
concern, too, that you're allowing that left turn  
to go out that way. The site would function  
without it but it's a benefit to the site, the  
rear access.

MR. CAPPELLO: That's why we, you know,  
explored it, because we knew that was a concern.  
It was what we thought and still think is, you  
know, a useful, you know, driveway to build.

MR. HINES: I have just a couple  
technical comments on the stormwater plan that  
the engineer has and I'm sure we can address as  
we go on.

The main one, the other one for the  
attorney here, they're showing a connection to a  
lateral, an existing force main that's on, I  
think, the Newburgh Mall parcel for their sewer,  
and that connection -- it's not on that map that  
you have there but I'm not sure it's part of the  
Town system that you're tying into. It may be  
the private lateral from the Newburgh Mall

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where the sewer is connecting. That's an issue. If it is part of the Town system, fine. If it's someone else's lateral you're tying into, you may have to have an easement or agreement with them for that to function.

The other comment is that the -- I didn't know there was an existing easement but we do require that, the Board, for the rear access --

MR. CAPPELLO: Sure.

MR. HINES: -- for review. That's all we have. I'll discuss the drainage comments with the engineer. He has them.

I just have a concern with their design, that they're using 150 foot long broad crested weir for discharge. It's a bit of a challenge to get 150 foot long straight, flat piece to discharge across the entire thing. There's usually a little drop somewhere that becomes an issue. I think I have a suggestion to resolve that but it does function so we'll work with them on that.

CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

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MR. COCKS: Yes. Mr. Cappello, did you have a copy of the letter from the Army Corp of Engineers? I don't have it in the file.

MR. CAPPELLO: I don't have it but I will provide it.

MR. COCKS: Thank you.

The parking space striping detail just needs to be revised to the Town of Newburgh double line striped.

The proposed bollards on site are yellow. I was just asking if they could possibly be white or match whatever color -- I didn't see what color the canopy was going to be so I didn't know if that was going to match or if you wanted that to really stand out, just because yellow is very --

MR. CAPPELLO: They probably took a design from one of their bollards. They do want people to see them.

The canopy we discussed at length with the ZBA. It's going to be the Stop & Shop color, the purple.

MR. COCKS: The lighting fixtures, the Town of Newburgh design guidelines require a

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maximum of 16 foot high lights in commercial site plans this size. The ones under the canopy are shown at 15 feet but the ones surrounding the tire center are 20 feet. The Planning Board can discuss if that is something that can be waived. We usually require 16 foot high lights. I don't know if the applicant is dead set on the 20 feet.

MR. CAPPELLO: I spoke to the engineers. I think we could put them at 16 feet but, what we've discussed, it would be more and there would be more intense. I'll I have them discuss, you know, directly with the Board as to how many more would be needed and what the additional intensity would be.

MR. COCKS: And just a request for when we do the ARB review, just to provide color and material samples for the Board to see.

That was it.

CHAIRMAN EWASUTYN: That's it.

Comments from Board Members. Tom Fogarty?

MR. FOGARTY: I just have one. Now that you have the new driveway which is going to allow a person to go out to Meadow Hill Road and

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take a left, have you ever thought about making that exit right turn only on 300, because that's one heck of a left-hand turn?

MR. CAPPELLO: One of the issues we have is as of now -- we'll have to explore it a little more -- I don't know if we can get even more than 18 feet on this, which would make it a one way. So you would still need a left into the site. Can we make another left turn out so people can go that way? I guess we can explore that.

CHAIRMAN EWASUTYN: Anything else?

MR. FOGARTY: No. That's it.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Just something that Pat had brought up. I don't know if you mentioned it with regard to the petroleum filter.

MR. HINES: That's one of the stormwater comments. They've put a proprietary device in the storm drain system to meet the requirements for a stormwater hot spot but the device they chose is really more for suspended solid removal and not for petroleum products. We'll address that comment. There are some

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different devices they could select that would act more as a filter for that petroleum for that stormwater hot spot.

MR. PROFACI: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: John, did you get the memo from Karen Arent on the landscaping?

MR. CAPPELLO: Yes, we did. I forwarded it to the applicant and they didn't see any problems with it. I'm sure we can address it.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: I'm fine.

CHAIRMAN EWASUTYN: Okay. Mike, do you want to discuss with us the letter that we would be referring it to the ZBA?

MR. DONNELLY: I'll send a further referral letter, 185-28, with the driveway.

MR. CAPPELLO: 28 or 20-A?

MR. DONNELLY: 185-28.

CHAIRMAN EWASUTYN: I think the other action before us this evening is to refer this to the Orange County Planning Department?

MR. DONNELLY: Yeah. You had resolved

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to do it way back when but we didn't while we were waiting for the more formal plans. I think we should send it now so we don't lose time.

CHAIRMAN EWASUTYN: John, you'll get a copy to Bryant Cocks?

MR. CAPPELLO: Yes. I don't recall, did the Board coordinate lead agency?

MR. DONNELLY: We decided to do an uncoordinated review.

CHAIRMAN EWASUTYN: Just as a matter of policy, on any resubmission would you identify, your letters and correspondence, with the project number?

MR. CAPPELLO: Yes.

CHAIRMAN EWASUTYN: Anything else before us?

(No response.)

CHAIRMAN EWASUTYN: Does that satisfy --

MR. CAPPELLO: I was going to -- could we get permission to maybe go to the next consultants' meeting to work out some of these issues with the hope toward, you know, coming back to a public hearing on this if we could

2 address --

3 CHAIRMAN EWASUTYN: Can we do a public  
4 hearing while it's before the ZBA?

5 MR. DONNELLY: Yes. You can't take  
6 action.

7 MR. GALLI: Does the ZBA have to do  
8 another hearing?

9 MR. DONNELLY: They'll have to.

10 MR. CAPPELLO: Unfortunately.

11 MR. HINES: You can waive it.

12 MR. DONNELLY: You could waive the  
13 public hearing.

14 MR. GALLI: We can waive it. They've  
15 already had one. They're going to have another  
16 one. It's going to be like the third public  
17 hearing for these people. It's all commercial.  
18 It's not like a lot of residential.

19 MR. CAPPELLO: Did the new law, I think  
20 it was aimed at one of my certain other clients,  
21 take effect regarding public hearings?

22 MR. DONNELLY: I don't think it's  
23 finalized yet.

24 MR. GALLI: I'd like to waive it if we  
25 could.



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CHAIRMAN EWASUTYN: Okay. I'll poll the Board Members. Do they want to have a public hearing on this?

MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: No. So that answers that.

Do you still want to have a consultants' work session?

MR. CAPPELLO: Yeah. I think it might be helpful just because I didn't have the consultant here.

CHAIRMAN EWASUTYN: What's the next available date, Bryant?

MR. COCKS: The Tuesday before Thanksgiving. So I think the 20th maybe.

MR. HINES: The 27th.

MR. COCKS: Is the 27th okay?

MR. HINES: It is the 27th.

MR. COCKS: Is the 27th good for you?

MR. CAPPELLO: Sure.

CHAIRMAN EWASUTYN: I'll move for a

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motion to set Route 300 Center for a consultants' meeting for November 27th.

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. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

Bryant will let you know the time of that meeting.

MR. CAPPELLO: Okay. Great. Thank you very much.

(Time noted: 7:15 p.m.)

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

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

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DATED: November 26, 2012