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

----- X  
In the Matter of

McDONALD'S  
(2013-20)

North Plank Road (Route 32)  
Section 76; Block 1; Lot 1.1  
B Zone

----- X

SITE PLAN - INITIAL APPEARANCE

Date: October 17, 2013  
Time: 7:10 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: KEITH CAHILL

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

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MR. BROWNE: The next item of business we have on our agenda is McDonald's, project number 2013-20. This is a site plan and initial appearance being presented by Bohler Engineering.

MR. CAHILL: Good evening, Chairman, Board Members. I appreciate the opportunity to come up and present what McDonald's is looking and hoping to do to redevelop their site. I think if the Board would like, I can give an overview of the project.

CHAIRMAN EWASUTYN: Please.

MR. CAHILL: What I would like to do is first orient the Board with the location of the facility. The existing McDonald's that is located on North Plank Road, it's known as 65 North Plank Road. It essentially has three frontages, just under 300 feet of frontage on North Plank Road and Gardnertown Road is to our south. Just orientation for ease of description tonight, I'm going to have North Plank running in the north/south direction . We also have approximately 600 feet of frontage on Gidney Avenue on the west side of our property. Just to orientate you, also we have the Citgo service

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station that's located at the intersection of North Plank Road and Gidney, and we have a retail facility, a strip mall just to our south as well as a bank and the Subway across North Plank Road.

The existing facility currently is approximately 2.8 acres. What I'd like to do is bring up my survey just to show you some current features as well.

MR. BROWNE: Could you twist the easel around?

MR. CAHILL: Certainly.

MR. BROWNE: Thank you.

MR. CAHILL: This orientation, North Plank Road is along our east side in the north/south direction. The existing facility is approximately 5,600 square feet. We have 90 parking stalls in and around the facility. Inside the facility we have about 113 seats. Currently we have two access points on North Plank Road. The enter drive on the north side of our property is approximately 25 feet in width and it's a one-way entrance. You can see we have parking on the north side of the building. Our handicap stalls are actually across the drive

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aisle on the entrance drive. The site circulation is intended to be in a counterclockwise direction. We also have the exit movement only on our southern driveway that goes out to North Plank Road. The other access point we have is on Gidney. You can see a full movement driveway out to the rear of the site, to the west, and we also have a full movement driveway on Gardnertown Road. Just to note, Gardnertown is a one-way road towards North Plank. So any movements in here, it's a left in and a left out that goes out to North Plank.

A couple interesting features and concerns of why this site needs to be redeveloped. Besides being an older facility that's in need of replacement, many things have changed in the McDonald's business over the twenty plus years that this facility has been in operation. In general McDonald's is going throughout the country upgrading and identifying facilities like this to replace and rebuild and do numerous things to them, including enhancements of the overall circulation on site and the drive-through operations. Back when

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McDonald's first started putting this facility in operation their anticipation of the amount of business between the inside of the store and the outside of the store, meaning the drive-through, was about fifty/fifty. Today's numbers throughout the country average in excess of sixty percent, between sixty and sixty-five percent on average, and sites that are on more of a commuter type road or state highway are even higher than that. So they found that they need to really improve the on-site circulation, the drive-through facilities and improve their overall business and not be so concerned with the number of seats inside. In this facility, as I mentioned, they have 113 seats.

And a couple other things relative to just this site specifically on why it's kind of in need of replacement/redevelopment. A couple things here. On the north side the feature that's behind the existing Citgo, our property juts out behind the Citgo, is our trash enclosure. It's detached from the overall development. Currently the truck that takes the trash comes off of Gidney, pulls into this area

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that's not paved, it's a gravel area -- grass/  
gravel area, backs up and then pulls back out in  
an area that doesn't have any curbing, it's  
relatively uncontrolled and isn't ideal for the  
current operations or today's practice in terms  
of operations as well as traffic safety.

A couple other points. As I mentioned,  
the entrance, you can see the stalls are angled.  
We have approximately a 25 foot drive aisle in  
this area on the north side of the building.  
Cars that enter our facility from the Gidney  
Avenue intersection -- access point or  
Gardnertown Road, if they wanted to use the  
drive-through, two things they can do if they  
entered here. They can go along our south side  
of the building, go out onto North Plank Road and  
come back in, which is obviously not an easy move  
during peak hours. It's most likely not going to  
happen. Or you do what I just saw happen twice  
tonight while I sat there for a half an hour is  
they enter in, they go the wrong direction in a  
one-way circulation on the north side, they make  
a U-turn and then get in the back of the line.

Also this existing facility has one

1 ordering point. They have two menu boards to  
2 show drivers. There's one I'll say facing north  
3 at the rear of the building. The ordering point  
4 is directly behind the building and then another  
5 ordering point -- menu board. In this type of a  
6 configuration only one car at a time can truly  
7 see a menu board. You can only take one order at  
8 a time, which just makes it more cumbersome to  
9 take an order from a customer. We do have two  
10 drive-through windows where the first window on  
11 the south side of the building is where you pay,  
12 you pull forward and at the second window you  
13 pick up your food. Very common in the world of  
14 drive-throughs and very common to have a single  
15 ordering point. However, McDonald's vast studies  
16 nationwide, worldwide is that one of the largest  
17 items they don't have control of is the ordering  
18 process because it's Joe public sitting in their  
19 car, having to order, and they can't pull the  
20 words or the orders out of their mouths so  
21 they're relying on the customer in that operation  
22 to occur at the pace that the person does it.  
23 For instance, if the mommy soccer van pulls up  
24 and six kids are sitting there, it's going to

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take a lot longer than the person coming up to grab a cup of coffee. In the overall cue of the drive-through, that one car is going to back up that entire line until that order. They can order ten sandwiches, they're going to have to wait in that line, anybody behind them, until that is processed. We do have a pull forward lane and parking stalls for that, however they still need to pull through the payment process and then come up. Part of this, again, was what McDonald's looked at to redevelop the site and overall operations to really improve and make this facility operate better and safer in regards to the on-site circulation and parking. I think that gives you a pretty good idea of how the site exists and lays out.

I want to show you what we're proposing to do in regards to the plans that are in front of you. I'll refer to my next exhibit which is essentially the site plan that was submitted to you. We colorized it, enhanced it for ease of display. Obviously the coloring will be the landscaping and the gray is the asphalt and the same colors of the building. For reference



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again, north is along North Plank Road. The top of the page is north. The same orientation.

With the overall improvements, we've redeveloped the site and we've anticipated knocking the building down entirely and essentially sliding it further to the south. You can see the operation from our northern property line where the Citgo is. This also drives our drive aisles, the enter and exit lanes, further to the south as well. What this is able to do is modify the overall on-site circulation, improve it drastically.

I'll point out the features at this point. In terms of the size of the building, it's about 400 square feet less than what you have there today. In regards to the number of seats, about 10 seats less than what is out there today. No more play area. Essentially the modern style McDonald's. If you've been up and down the Thruway or 9W you may have seen a couple of the newer, modern facilities.

I'll show you some elevations. In regards to the overall site, again we're going to maintain an entrance only driveway on the north

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side. We have 60-degree parking on both sides of our drive aisle. We've located the handicap stalls immediately adjacent to the building. As I mentioned before, they were across the drive aisle. We have maintained one-way circulation around the entire building in a counterclockwise direction, which again is convenient for the drivers when you're going through a drive-through in your car reaching out and paying. We've maintained our exit point on North Plank Road as well, a right out and left out opportunity. We've maintained our Gardnertown Road access point exactly where it's located today. We've enhanced it with some landscaping and put a little seating here. I think there are a couple tables out there. We created a patio out there.

We relocated the trash enclosure from the area that was up on the north side and the truck was basically coming up to the grass and gravel and pulling in. We've relocated it in the rear of the property, again convenient for the workers to get rid of the refuse and also convenient for the on-site circulation of our truck to pick up for the trash and recycling.

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We've shown again parking stalls in and around the facility in accordance with your ordinance. As I mentioned, or maybe I didn't, we've reduced the number of parking stalls from 90 down to 64. Again, from a McDonald's evaluation, from a business standpoint, not a concern at all. It meets your code requirements and it will meet their business demand. As I mentioned, the amount of business we have going through the drive-through reduced the need for the amount of parking on site.

We have relocated the Gidney Avenue access point as well. That went further to the north. What this has done now, anybody entering the site, from any portion of the driveways you're allowed to enter. In other words, the northern driveway with the entrance only driveway, the entrance off of Gidney or the entrance off of Gardnertown can get into our drive-through without making any illegal moves, U-turns, et cetera. The other primary feature we've added, as I mentioned before, previously you entered and went to exit back out onto North Plank Road and go back out to McDonald's, you'd

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have to go back out onto North Plank Road and into the facility. We have proposed what we call a recirculation. That is a key element to provide anybody entering the site off of Gardnertown Road to get into this -- along this drive aisle on the south side, resurf the site and get in the cue lane where it needs to be. In terms of Gidney, where you enter now you'd be coming into the cue.

One thing I forgot to mention on the existing conditions, we have room for eleven cars to stack before you get into the first obstruction of a parking stall. Eleven cars can stack. You still have room to stack into the site but then you start blocking other parking stalls. This reconfiguration, we're introducing McDonald's most efficient drive-through facility operation as they have in their arsenal we'll call it. All of the dimensions relative to the drive-through lane and configuration relative to the building and ordering point are all maxed out in terms of car spacing. So they use it in 25 foot increments. The distance between the windows allow for cars to sit in between. Things

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of that nature which really improve the circulation and operation of the drive-through.

We allow for what we call a side by side. There's essentially two ordering points, one that's closest to the building adjacent to the green area, then you see an island, and we have another ordering point just to the west of the other one. So there are two side by side. If you're going up to a toll booth, you can go up two places to pay your tolls more efficient than one place. Two places to order. As I mentioned before, the slowest portion of what McDonald's facilities encounter and the least control they have is the ordering points. So now they have two points and essentially doubles the efficiency as much as they can from obtaining the order from a customer. The other nice thing, both lanes are always open all the time. If they see a car, a larger mini-van taking seven orders versus a guy coming with one coffee, you can hold that car until -- and keep the inner lane operating until that food is getting closer to being ready and have them pull forward. That's the type of stuff that will improve the overall operation, improve

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the efficiency, minimize the amount of time cars are idling or cueing on site. This configuration allows thirteen stalls up to our -- where you come up to the island to split, the fourteenth car before it starts cueing into a parking stall. So you have double the capacity in terms of obtaining the order and increasing the amount of cueing.

MR. BROWNE: How do you hold --

MR. CAHILL: Great question. I answer that one for every board. Essentially if you're familiar with the McDonald's order, what they are going to do, there's a box there you order into, there's a display that shows you what you order, and they will hold you by saying wait until we ask you to pull forward, essentially. They're not going to tell you how much, they're going to say come up to window 1, it's X amount of dollars. Every order that goes on at the two ordering points, there's a picture taken of you and your vehicle. That's how they track the order. The order is tracked internally following your order to make sure it comes to the window, who is paying and what food is being picked up.

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That's how it happens. Obviously these cars are stopped at this point. They do merge back together. They're alternated between them coming through. As I mentioned, you can hold one and have multiple go through. That's to improve the overall efficiency and operation.

Again in terms of the configuration of the parking, where we've located it, the handicap stalls, having more stalls adjacent to the building, adding the recirculation lane. This is by far a superior layout for site circulation. You have an existing facility that's successful on a busy road. We're improving the overall circulation on site which will improve the movements that our customers make when they go to leave the site as well.

A couple of other key components. We are reducing impervious coverage overall by 5,000 square feet. We'll be in compliance with the DEC stormwater management regs. We are adding -- although we're not increasing the impervious, we are adding a water quality device as well. So we're going to be improving the water quality from that aspect on the stormwater management

1 side. Obviously the site has all of it's  
2 utilities as required. We'll be reutilizing the  
3 existing facilities. In terms of that,  
4 installing new laterals, bringing new services  
5 in. The facility itself is actually getting a  
6 little bit smaller. There's no need or concern  
7 in the increase in utilization of existing  
8 resources.  
9

10 In regards to the interior of the  
11 building, modern, more efficient in terms of the  
12 layout of the interior of the building so they  
13 can prepare food faster, essentially, because  
14 they've improved their assembly line per se.  
15 They use more efficient equipment in terms of  
16 usage of resources. High efficiency equipment,  
17 LED lighting on the inside of the building,  
18 things of that nature.

19 In regard to the site lighting and  
20 things of that nature, the existing site has  
21 angled lights and more spill and sky glow and  
22 things. We're going to use modern fixtures and  
23 down lit box fixtures and things of that nature.

24 In general I really can't say that  
25 there's anything -- this is a superior plan and



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I'm hoping that we can proceed with a site plan application. We understand we would hopefully be referred to the Zoning Board. Being in a B Zone, specifically the fast food component is not permitted. It is an accessory use in the IB Zone and in this zone we could be not permitted.

A couple quick features. We're adding some sidewalks, just to maintain the crosswalks to improve for pedestrian circulation as well.

CHAIRMAN EWASUTYN: Good presentation. I think you summarized everything well.

I'll turn to the Planning Board Members to see if they have any questions at this point. Frank Galli?

MR. GALLI: Is there going to be curbing along the Gidney Avenue side?

MR. CAHILL: We only have edge of pavement there. Again, we're kind of restoring it to the existing conditions. Those are the types of things we would be open to for comment, about sidewalks.

MR. GALLI: When they turn off North Plank Road heading east, coming east on North Plank, taking a right onto Gidney, they're going

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to take a left into the McDonald's site. Isn't that pretty close to the light?

MR. CAHILL: You're referring to the left movement in. I was out there this evening during the peak hour and Gidney does backup, as you all probably are aware, the northbound traffic at that signal. What you do notice, there's still about 270 feet from our access point to the intersection, and you are sitting there, and I've witnessed -- there's gaps there. There is enough for a car to creep up, make a space for a single car to enter into the driveway. I also don't feel with that distance -- you know, cars do creep up along it. You're going to get a courtesy gap, I'll call it, to make that move in. I don't foresee it really backing up that distance to the intersection. Also, not that, you know, I should be relying on this but there is a shoulder, a gravel shoulder, that you can see cars utilize now. If it really was a bad situation I'm sure cars would use it. This property to our west is vacant at this time.

MR. GALLI: That was the only question I had.

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CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I like the layout a heck of a lot better than what's there now. That's for sure.

The cueing back, that entrance on Gidney is closer than the current one and the current one gets backed up. During most of the time that the drive-through is used is rush hour time. That's when it backs up. I don't know if that's going to be an issue, but whatever.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Cars coming in, most of them I would guess come off of North Plank Road and they get stacked up pretty good on the existing arrangement. How are the cars going to get from Gidney Avenue, because they're going to have to interrupt that stream of stacked cars; right?

MR. CAHILL: Certainly. I'd like to point this out. The vehicle I'm pointing to now, which is, I'll call it the western most side of our rear building here, is the thirteenth car in the cue, okay. The fourteenth car would be sitting here, and the fifteenth. So it would

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take about fifteen cars before a car would not be in there. Our experience now, as I mentioned, the existing facility has, and you've seen this, and I saw and witnessed it, the cue line actually comes down the building further. It's 220 feet from our pay window to this parking stall on the north side of the building. If you divide that by 20 feet you have eleven cars sitting there. Currently if you had fifteen cars, it's going to stack out to the road essentially. One ordering point. It's our, what I'll call least efficient operation from the drive-through. We're now proposing to put the most efficient which will improve the hardest item to control for McDonald's, which is the ordering. In this position now as I mentioned, you're at this location which is -- would allow for another ten cars to get back towards North Plank Road with a much more efficient operation in terms of taking the order. So I foresee this as a superior layout that won't cue, in our experience of cueing, even beyond this car where you have two behind it. If you're sitting here, you have seven cars to hold before you order. Your seven

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2 cars on the other layout would take you towards  
3 the front of the site from that point. So I  
4 don't see that as a concern. Again, where those  
5 cars are dumping in off at Gidney now is in a  
6 spot that would be behind, as I mentioned, the  
7 fifteenth car, which we really don't foresee that  
8 happening here based on the current business and  
9 and hopefully an improved business if we improve  
10 our operations. I hope that answers you.

11 MR. MENNERICH: Yes. Thank you.

12 CHAIRMAN EWASUTYN: Following Ken's  
13 question, during peak hours how many cars would  
14 you be serving?

15 MR. CAHILL: That's a great question.  
16 It varies from operation to operation. Our  
17 estimate here, you know, in terms of handling in  
18 the peak, an hour of a two hour period of time in  
19 a magnitude of over a hundred orders to two  
20 hundred orders. Again divided over a period of  
21 time in a peak hour or two hours. Something in  
22 that neighborhood. Again, not a concern from  
23 this facility with the dimensions. As I  
24 mentioned, we have our largest spacing that  
25 McDonald's recommends, 100 feet between the order

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point and our pay window. Again, this facility will operate efficiently and safely.

CHAIRMAN EWASUTYN: Tom?

MR. FOGARTY: Just a couple of comments. That building has been there a long time. Whoever has been in charge of managing it has done a very nice job. It's a good looking building. It's well kept up front and it's always clean. It's really a good operation.

My concern was Ken Wersted who did our traffic study mentioned that Gidney Avenue to the north may cause a problem. The more I think about it, because I live out -- used to live out in that area, I very rarely saw anybody, even in the old location of that access, do I remember anybody taking a left into Gidney. If you're coming down 32, you're going to go through the light and take a right.

MR. CAHILL: Correct.

MR. FOGARTY: So even though it's moved up north a little bit, I don't know how much of a problem it's going to be.

MR. CAHILL: Just to add on to that, the current location of the driveway now, it's

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about 75 feet further to the south. Currently it does back up along there, passed the driveway. It's not like we're creating it, meaning it's there now. Yes, we're getting a little closer. Your point is a very valid point. Anybody heading southbound on North Plank Road, it's a much easier movement to make the right in rather than coming down Plank and making a left, especially in the peak hour. Again, having a nice throat now in terms of trying to make a movement out, you have the ability to stack into the site, not backing up into the site at all. I really don't feel that 75 feet getting closer to the intersection, still over 250 feet, I think 270 when I measured it out to the intersection. That's a lot of cars before you start seeing it backed up.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: My question was about your dumpster, possibly relocating it because you have picnic tables over there, for one. For two, you have the merge with the drive-through and you want your flow for traffic going around the building. Where it's located, it's like

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employees going out dumping garbage where people eat.

MR. CAHILL: It's a valid point and we've had these discussions internally. If it's here or possibly in back by these three stalls we would lose -- we probably wouldn't be able to replace the same number of stalls if we put it back in this location. We may lose a stall or two more. Again, it's not creating any variance or concern from the parking scenario. It is a little bit further for the employees to walk, but that's something that we could definitely entertain in terms of relocating that.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance. At this point what's your understanding of the issues before us?

MR. CANFIELD: As we discussed in the work session and the applicant's representative -- which also if you could give us a card for our Stenographer, please. We discussed that this is in a B Zone. Fast food restaurants are not permitted in the current zoning in the B District. As it is, it's what's known as



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existing nonconforming. With the taking down of the existing building and rebuilding it, we feel that you're going to lose your existing nonconforming protection, therefore this Board I think would be obligated to send a referral or send you to the ZBA for that. If you choose to look at our Municipal Code, our Zoning Code, 185-19 is the section that deals with this, and it deals with reconstruction and relocation of existing nonconforming uses.

Essentially that's it as far as they're going to need a referral to the ZBA.

MR. DONNELLY: We'll make it a referral for both a use variance, if that's needed, or for you to give an opportunity to convince the Zoning Board as a matter of interpretation you're permitted to continue. If in fact you need a use variance, you'll also need some endorsement of your setbacks because the use is not permitted so there are no bulk table requirements for this use because it doesn't exist in the B Zone. So I think whatever the setbacks are, the Zoning Board would have to endorse them.

MR. CAHILL: Okay. I forgot to

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mention, under the existing condition we are in a nonconforming setback.

MR. DONNELLY: You're protected now.

MR. CAHILL: And the proposal would be in compliance with the B. Yeah.

MR. DONNELLY: There is no --

MR. CAHILL: Not for this use.

MR. DONNELLY: Yeah, yeah.

CHAIRMAN EWASUTYN: Will that suit your needs then?

MR. CAHILL: Yes.

MR. DONNELLY: I'll send a letter with the Board's permission.

CHAIRMAN EWASUTYN: I'll move for a motion to have Mike Donnelly prepare a letter to refer to the ZBA for the application of McDonald's, for whether it be a use variance or --

MR. CANFIELD: Interpretation.

CHAIRMAN EWASUTYN: -- interpretation.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich.

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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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Nice presentation. Thank you.

MR. HINES: John, do you want to do lead agency?

CHAIRMAN EWASUTYN: We should really get that going.

I'll move for a motion to declare our intent for lead agency.

MR. GALLI: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

Keith, you'll make it a point of getting the information to Pat Hines and Pat will do the coordination on that.

MR. CAHILL: Yes.

CHAIRMAN EWASUTYN: Is it too early to do a referral to the Orange County Planning Department?

MR. HINES: I think the plans are -- my comments are technical in nature. I don't think we're going to see a lot of change in the layout.

CHAIRMAN EWASUTYN: I'll move for a motion under 239-M of the Municipal Law to refer this to the Orange County Planning Department.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Tom Fogarty.

MR. BROWNE: Discussion. Is that something we can do before we get the -- anything

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from the ZBA back as far as whether it can go forward or not?

CHAIRMAN EWASUTYN: Yeah, because the plans aren't going to change.

MR. BROWNE: All right.

CHAIRMAN EWASUTYN: I mean there may be a tweak, and we don't even know that because there aren't any bulk requirements right now for this use because it's not a permitted use. Whether it's a sixty-foot or a fifty-foot setback from North Plank Road, I mean that's just --

MR. BROWNE: We're assuming that -- okay.

CHAIRMAN EWASUTYN: I think we had a motion by Frank Galli and a second by John Ward. Was that --

MR. GALLI: Ken Mennerich and Tom Fogarty.

CHAIRMAN EWASUTYN: Any further discussion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote.

MR. GALLI: Aye.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

The only other minor issue is would they now consider approaching the -- for a City flow acceptance letter or --

MR. HINES: They don't need the City flow acceptance because the building is going to be 400 square foot smaller. That's an exemption under that.

I'm going to need five sets for circulation. Get those to my office and we'll get those out.

MR. DONNELLY: You will need to submit your own application to the Zoning Board. We'll send a referral letter. If you give me your business card I'll also e-mail a letter to you so you have it.

(Time noted: 7:41 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 10, 2013