

DRISCOLL SUBDIVISION

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

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In the Matter of

DRISCOLL SUBDIVISION  
(2005-46)

Route 300  
Section 34; Block 1; Lots 45,46,31.2,52.1 & 53.5  
Section 60; Block 2; Lot 4  
R-3 Zone

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PUBLIC HEARING  
DRAFT ENVIRONMENTAL IMPACT STATEMENT

Date: June 7, 2007  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- CLIFFORD C. BROWNE
- KENNETH MENNERICH
- EDWARD T. O'DONNELL, JR.
- JOSEPH E. PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- EDWIN GARLING
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT
- KENNETH WERSTED
- MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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



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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of the 7th of June.

At this time we'll call the meeting to order with a roll call vote.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. O'DONNELL: Here.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: The Planning Board has experts that provide input and advice to the Planning Board in reaching various SEQRA determinations. I ask that they introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

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

MR. GARLING: Ed Garling, Consulting Planner.

MR. COCKS: Bryant Cocks, Garling Associates.

MS. ARENT: Karen Arent, Landscape

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Architectural Consultant.

MR. MUSSO: Mike Musso, HDR LMS,  
Telecommunications Facility Consultant.

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

CHAIRMAN EWASUTYN: At this point I  
would like to turn the meeting over to Joe  
Profaci.

MR. PROFACI: If you would stand and  
join us in a pledge to the flag.

(Pledge of Allegiance.)

MR. PROFACI: If you could please turn  
off any cell phones that you have. Thank you.

CHAIRMAN EWASUTYN: The first item of  
business this evening is the Driscoll  
subdivision. It's a public hearing on the Draft  
Environmental Impact Statement. It's located on  
Route 300 in an R-3 Zone and it's being  
represented by Ross Winglovitz.

I'll ask Mr. 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

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2 Newburgh, Orange County, New York will hold a  
3 public hearing pursuant to the Municipal Code of  
4 the Town of Newburgh, Chapter 185-57 Section K  
5 and Section 276 and 6 NYCRR Part 617 SEQRA on the  
6 application of the Driscoll subdivision for a  
7 107-lot residential subdivision and completed  
8 Draft Environmental Impact Statement. The  
9 project site is located off of Route 300 and  
10 Gardnertown Road in the Town of Newburgh,  
11 designated on Town tax map as Section 34; Block  
12 1; Lots 31, 45, 46, 52.1, 53.5. The public  
13 hearing will be held on the 7th day of June 2007  
14 at the Town of Newburgh Town Hall, 1496 Route  
15 300, Newburgh, New York at 7:00 p.m. at which  
16 time all interested persons will be given an  
17 opportunity to be heard regarding the subdivision  
18 proposal and the contents of the D.E.I.S. A  
19 description of the project is provided below.  
20 Project description: The Driscoll subdivision is  
21 proposed for development on five parcels of land  
22 in the Town of Newburgh, Orange County, New York  
23 totaling 72.3 acres. As proposed, the Driscoll  
24 subdivision will contain 107 single-family  
25 dwelling units. There are 2 existing dwelling

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2 units on the property at this time. 105 new  
3 dwelling units will be constructed. Public water  
4 and sewer service will be used at this site.  
5 Copies of the subdivision plans and D.E.I.S. can  
6 be reviewed at the Planning Board office,  
7 Newburgh Free Library and are available on-line  
8 at [www.Townofnewburgh.org](http://www.Townofnewburgh.org) or [www.EPPE.cc](http://www.EPPE.cc). The  
9 public hearing may be closed or continued in the  
10 Planning Board's discretion. Written comments  
11 regarding the D.E.I.S. will be received ten days  
12 after the close of the hearing. By order of the  
13 Planning Board of the Town of Newburgh. John P.  
14 Ewasutyn, Chairman, Planning Board Town of  
15 Newburgh. Dated May 17, 2007."  
16 CHAIRMAN EWASUTYN: If you need time,  
17 you can report to the Board later on.  
18 MR. BROWNE: Please.  
19 CHAIRMAN EWASUTYN: Thank you.  
20 Cliff Browne is entering in the  
21 registered mailing and he'll advise us at the end  
22 of the hearing.  
23 At this point I'd like to turn to Mike  
24 Donnelly, our Planning Board Attorney, to educate  
25 the members of the public as to where we are in

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the process. Mike.

MR. DONNELLY: There are actually three public hearings on this evening's agenda. The first of those is the hearing that Mr. Mennerich has just read the notice concerning, and that is the Driscoll subdivision. I'll try to outline where that stands and what the purpose of the hearing is. The majority of my comments will also relate to the other two hearings which are on for site plan purposes.

Tonight's hearing on Driscoll involves, as you heard from the notice, two aspects of the project. The first is the environmental impacts of that project. This project received -- has been pending before the Board since 2005 and the Planning Board, early in the process, identified it as a project that might have potentially significant adverse environmental impacts. When that happens, through the issuance of what's called a positive declaration, the applicant is required to prepare and submit to the Board a Draft Environmental Impact Statement. That document, as the notice has told you, was available at the town hall, in the library and

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2 on-line. It is the results of the study that the  
3 applicant's consultants have presented to the  
4 Board and it follows a table of contents that was  
5 prepared by the Planning Board some time ago  
6 called a scoping outline. The purpose of the  
7 hearing this evening in so far as the  
8 environmental impacts is concerned is for you to  
9 bring to the attention of the Planning Board any  
10 environmental issues that you think are either  
11 not adequately addressed within that statement or  
12 which you think should be addressed.

13 Secondly, the purpose of the hearing is  
14 to address the subdivision itself, the layout of  
15 the lots that are shown on the board that's in  
16 the front of the room there, the provisions for  
17 roadways, drainage, so on and so forth, and any  
18 things that you want to bring to the Board's  
19 attention in regard to that is fair game as well  
20 for this evening.

21 If I can just skip ahead so you'll  
22 understand where we are in the process and what  
23 will come later, after the hearing is closed,  
24 whether that's tonight or some other date, the  
25 public will continue to have the opportunity to



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2 submit written comment for up to ten days  
3 following the close of that hearing, or whatever  
4 date the Planning Board announces for the close  
5 of the hearing, which will be at least ten days  
6 after the close of the hearing. Those comments  
7 in written form as well as those that are made  
8 this evening, and our Stenographer is taking them  
9 all down, will then be further addressed in a  
10 document called a Final Environmental Impact  
11 Statement. The applicant's representatives will  
12 have to prepare that document and submit it to  
13 the Board and the Board will have to be satisfied  
14 that the content as to its perspective adequately  
15 addresses all the environmental issues that were  
16 originally identified and brought to the Board's  
17 attention during this public review. After the  
18 F.E.I.S. as we call it, the Final Environmental  
19 Impact Statement, is issued, the Planning Board  
20 then will issue what is called a Findings  
21 Statement. The Findings Statement is a document  
22 in which the Planning Board identifies and  
23 specifies mitigation measures, things that the  
24 applicant must do or changes that it must make to  
25 its plans in order to address the environmental

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2 issues that are studied in the Environmental  
3 Impact Statement. Only after that F.E.I.S. is  
4 prepared, issued and filed and the Findings  
5 Statement is issued can the Planning Board take  
6 action on the proposal. There are various time  
7 deadlines that are provided for. I don't think  
8 it's helpful for me to review them all, you'll  
9 never remember them anyway and many of them will  
10 be extended because the applicant may take longer  
11 than some of the deadlines that are imposed on  
12 the Planning Board to complete that process.  
13 In terms of this evening's procedure,  
14 what will happen is in a moment the Chairman will  
15 ask the applicant's representatives to describe  
16 the project for you, and when that is completed  
17 the Chairman will then ask those who want to  
18 address the Board to please raise their hand and  
19 come forward. You are a large crowd and we need  
20 to try to accommodate what you want to bring to  
21 the Board's attention. We would ask therefore  
22 that you wait until you are recognized by the  
23 Chair, and then if you would step forward and  
24 address your comments to the Board. We would ask  
25 you to identify yourself, spell your name if you

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1  
2 would for our Stenographer so we can get your  
3 name and spelling down correctly. It would be  
4 helpful to the Board if you'd tell us where you  
5 live so we know where you are in relation to the  
6 project itself. If your comments run on for too  
7 long a period of time the Chairman may ask you to  
8 complete your comment and allow you to return and  
9 speak again later. Simply the Board would like  
10 to hear from as many of you as possible.  
11 MS. KISSAM: Excuse me for interrupting  
12 you, sir. I'd like to know why we don't have a  
13 microphone set up. This is a public hearing and  
14 it's very important that the Stenographer be able  
15 to understand everyone's comments. Some of us  
16 can speak out but some of us might have soft  
17 voices. I've never been to a public hearing in  
18 this building that didn't provide a microphone  
19 for the audience. May I ask why we're not doing  
20 that?  
21 MR. DONNELLY: We haven't had any  
22 particular difficulty in the public hearings  
23 we've held here. If anyone has trouble hearing,  
24 then we'll ask you to raise your hand, let us  
25 know that and we'll ask the speaker --

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MS. KISSAM: I'm speaking of people who address the Board. Usually there's a microphone here for people who address the Board. This is a public hearing and people will address the Board.

MR. DONNELLY: I'm not disagreeing with you that that equipment is sometimes used here. The Planning Board has not found it necessary or helpful. Some people feel uncomfortable in front of a microphone. What we would ask you to do is to address your comments to the Board. If you have a question, the Planning Board, if it's a simple question, will ask either the applicant's representative or one of the consultants to answer it. Recognize that many of your questions won't be answered tonight. The purpose of the hearing is to get the issues and the questions that you are raising so that they can be further studied in the Final Environmental Impact Statement. We would ask you to keep that in mind, address your comments to the Board and recognize that the answers may come at a later stage. Of course that Final Environmental Impact Statement will be available for public examination.

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The other two hearings after this involve site plans but most of the rules I have just outlined, except those regarding the Environmental Impact Statement procedures, apply as well.

CHAIRMAN EWASUTYN: Thank you. At this point I'll turn the meeting over to Ross Winglovitz.

MR. WINGLOVITZ: Good evening. My name is Ross --

MR. BROWNE: Ross, holdup. Do you have anything about the notification that went in the newspapers?

MR. DONNELLY: Usually that's done by the Town.

CHAIRMAN EWASUTYN: We keep a record of that.

MR. BROWNE: Okay. I'm sorry. Go ahead.

MR. WINGLOVITZ: Good evening. Ross Winglovitz, the site engineer with Engineering Properties representing the Driscoll subdivision this evening. The project that we're presenting this evening is a seventy-two acre parcel located

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on Gardnertown Road and Route 300 just north of town hall here on the west of 300. Kroll Acres is to the west of the project and the Quassaick Creek borders the project on the east. The project is located in the R-3 zoning district which permits 12,500 square foot lots. All lots proposed are at least 12,500 square feet or larger.

There's a hundred and seven proposed lots for the project, a hundred and five new homes. There are two existing homes, the Davis home here and the Driscoll home, at the entry off of 300 that exists today.

Although the site looks like it's a cluster subdivision, it's really not a cluster subdivision. It's in full compliance with zoning. The lots haven't been made any smaller. It was the applicant's intent early on to preserve a large buffer along the creek, and as you can see they've done that. Approximately six hundred feet from 300 to the nearest homes that make up the main body of the subdivision. There are two proposed homes off the entry drive from 300 and a recreational area that includes a half-

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court basketball and an open grass field area for soccer and basically just for play purposes.

The project started in 2005. In the summer of 2005 it was first submitted to the Planning Board. After that the Board reviewed several different layouts for the project and a presentation was made to the public in January 2006. Many of you may have been invited and may have been there. It was over at the school and it was an informational presentation to give out information about the project early on in the process so that people knew it was coming instead of this being the first time you heard about it, or the scoping session being the first time. After that meeting we came back to the Board and the project was given a positive declaration, which means it was required to prepare an Impact Statement as Michael had said, and a public scoping session was held in May of that same year. So May of 2006. That scoping session many people were also invited to. There was a public notice and there was a lot of participation regarding the scope of what the Environmental Impact Statement was going to be.

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There were concerns voiced regarding buffer areas and trees, traffic, drainage, so on and so forth. Those were all considerations that were given to the Town Planning Board. They appeared in an outline of the document that we needed to prepare and to address. That document sitting on the Planning Board's desk up there is called a Draft Environmental Impact Statement and that outlines several of the studies or all of the studies that were done regarding the project. I'm going to go through them briefly for everybody so they have an idea of what we've done so far.

The project drainage was one of the concerns we had heard about. The drainage for the site basically flows from west to east. This project is slightly downhill of Kroll Acres. The stormwater would come onto this -- rainfall would come onto this site. It's collected by internal piping systems. The rainfall is then discharged to one of the ponds on the site where it's treated. It's treated in accordance with State requirements for water quality. The water has to be cleaned up before it is discharged to the stream. So there's three ponds provided for that



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purpose. The site design has met or exceeded all the State requirements for water quality for the site.

Traffic was another concern that was addressed in the Environmental Impact Statement. There were ten intersections that were studied, primarily up and down Route 300 but also the site entrances and Gardnertown Road, and I believe it's Union Avenue. Yup, that was also studied. And as far south as 52 and 300, as far north as 300 and 32. The study primarily concluded that eight of the intersections would operate similarly in the future with or without this project and there was no specific impact to the project. There are two intersections that are projected that in the future they're not going to operate very well. We're not going to change that but we've agreed to participate in future improvements for those intersections. That intersection is New York State Route 300 and Gardnertown Road at the light. There are left-turn lanes proposed at that light. The concern is going to be people coming north on 300 taking a left into Gardnertown Road. In the future

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2 without the project there's going to be a backup  
3 there. With the project it's not going to be any  
4 better, it's not going to be significantly worse.  
5 It's an existing condition and it's been  
6 identified --  
7 UNIDENTIFIED SPEAKER: The town  
8 supervisor said there was going to be a left-hand  
9 turn --  
10 CHAIRMAN EWASUTYN: Sir, sir. At this  
11 point the meeting isn't open to the public. As  
12 Mike Donnelly had said earlier, when that point  
13 comes we ask that you raise your hand, give your  
14 name and your address and we'll then acknowledge  
15 you and give you the floor.  
16 UNIDENTIFIED SPEAKER: Excuse me.  
17 CHAIRMAN EWASUTYN: Thank you.  
18 MR. WINGLOVITZ: That intersection has  
19 been identified by the Town as needing  
20 improvements, so we've agreed to participate in  
21 those improvements. We're going to be meeting  
22 with the Town Board to discuss what that  
23 participation is. We're looking at our fair  
24 share contribution to those improvements at that  
25 intersection.

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The other intersection that has also been identified previously as having traffic problems is basically 300 and 52. That intersection is also projected to have traffic backups during peak times under future conditions. With the project it's not going to get any worse but it's not going to get any better, so we've agreed to also participate in those improvements with our fair share contribution for upgrades to that intersection.

The traffic pattern for the site. There are two site entrances. The primary entrance is on Route 300 and a secondary entrance on Gardnertown Road. This provides for good circulation through the site and for access for emergency vehicles in the event that one of the other two intersections were closed down for any reason.

Water for the site is going to be obtained through a connection in two locations, one to the existing fourteen-inch transmission line that's on New York State Route 300. This is the main transmission line that comes from the Chadwick Lake reservoir south on 300. There will

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be a connection there with a series of eight-inch water mains throughout the site, fire hydrants so there will be fire protection here, and then it will be reconnected to an existing eight-inch main on Gardnertown Road. So there will be a looped water system through the site. Flows and pressures have been determined to be satisfactory to service the site.

Sewer for the site. Obviously on 12,500 square foot lots, or maybe not so obviously because some of you probably have those size lots that don't have central sewer, but under current codes we're required to provide central sewer for these properties. As many of you know, there's no sewer available in 300. There is an approved project that was previously approved by the DEC for a sewer main extension, it's called the Plattekill Turnpike extension, from south of the site up along Quassaick Creek through the site, and actually it was originally approved to go up to Chadwick Lake. The applicant is going to work with the Town and is going to construct that improvement that was previously approved. There will be slight modifications to that so it

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2 will have to be changed. That was approved in  
3 the '90s. We have more information now. There  
4 are houses in different locations. That will be  
5 modified slightly but it will follow the same  
6 path, up along the creek, through the town hall  
7 property, behind the building up across 300 and  
8 up along the creek on our side of the property.  
9 That improvement will be done for the Town by the  
10 applicant. The site then will have a collection  
11 system that will connect into that at several  
12 locations to provide central sewer for the  
13 property.  
14 MR. PIRGER: Excuse me.  
15 CHAIRMAN EWASUTYN: Sir, sir.  
16 MR. PIRGER: Excuse me.  
17 CHAIRMAN EWASUTYN: Sir, sir.  
18 MR. PIRGER: How does this affect the  
19 nude bathing beach?  
20 CHAIRMAN EWASUTYN: We'll address your  
21 questions when the applicant is --  
22 MR. PIRGER: No problem. No problem,  
23 sir.  
24 CHAIRMAN EWASUTYN: Okay. Ross.  
25 MR. WINGLOVITZ: Another issue that was

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of concern was school children. It's always a concern when you do a new subdivision here. An analysis was done of the school-age children that were going to be produced by the project, and I use the word school-age children because everybody is going to say there's more children than that. The studies have shown, and over the year more recent studies have been done in the Town, and it's predicted there would be ninety-four students from this project that will go to the Newburgh School District. As I said, there will be more children younger than five, some will be older, some will go to private school. We've been pretty consistent with those predictions. Some of the history of some of the projects we've been following in Newburgh, some of those projections are slightly higher than what actually happens. That analysis, the projected number of students, and also projected costs and the fiscal impacts of this project because that's always a concern, school costs, it was determined that there would be a surplus or net revenue to the school district from this project. It's a balancing act between obviously

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the number of students and the pricing of the homes and their assessed value. So that study was prepared as part of this Draft Environmental Impact Statement and was submitted for the Board's review.

Other analysis that were done, and I'm not going to go into detail. There was a wetlands report prepared. there was a delineation done of the wetlands on site. These identify actually one of the wetlands here. There's one here, one along the creek. Those are identified. Those studies were submitted to the Town and they were also submitted to the Army Corp of Engineers. The Board doesn't have it in its file but we just received yesterday the confirmation of that delineation confirming all the wetlands on the site have been mapped.

There was a cultural resource assessment, that is an archeological investigation, to determine if there's any historical or prehistorical artifacts on the site that may need to be preserved or cataloged. There were over nine hundred actual test holes dug on the property to determine if there was

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anything on site. This is one of the few I found. I think they had two fragments and nine hundred holes and it was determined there was no impact whatsoever on historical or prehistorical resources for the site.

There was also a geotechnical investigation. What that is is test pits are dug throughout the site to determine if the ground is capable of handling the loads from construction of roads and houses and so forth.

There was also a vegetation and habitat study done. The vegetation study kind of had two aspects to it. One, a very clinical kind of review of what's on site and the other a more realistic view of what's on site, what we can preserve to protect the view sheds from neighboring properties and what we can preserve along the creek to protect the Quassaick Creek. As you can see, that resulted in a large green area along Quassaick Creek. There were several meetings held with the people, I was in attendance and I think some of the town consultants were, for some of the residents along Kroll Acres to determine how we could save trees



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to protect views, and where we couldn't save them  
how we could supplement them. There were several  
different methods used along this rear property  
line to help protect views for those residents.

I think that's all I have for now.  
I'll ask if there are any questions of the Board,  
I'll be glad to answer them.

CHAIRMAN EWASUTYN: Okay. Sir, if  
you'll give your name and --

MR. PIRGER: John Pirger, 86 Meadow  
Hill Road.

CHAIRMAN EWASUTYN: And your comment,  
sir?

MR. PIRGER: How will this affect the  
nude bathing beach located at the end of Gargoyle  
Lane?

CHAIRMAN EWASUTYN: Do you care to  
respond to that?

MR. WINGLOVITZ: I'm not aware of a  
beach.

MR. PIRGER: Look at the tax maps.

MR. WINGLOVITZ: There's no lake on the  
property, there's no beach on this property.

MR. PIRGER: There is a nude bathing

DRISCOLL SUBDIVISION

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beach.

MR. WINGLOVITZ: We'll be glad to look into it.

MR. PIRGER: Look at it.

CHAIRMAN EWASUTYN: Okay. As the attorney had said earlier on in the review, there are some comments that we may not be able to have an answer for this evening but we will look at them in the F E.I.S.

Mike, would you care to elaborate on that?

MR. DONNELLY: There will be another document that may well answer your question, or at least provide an explanation for what we've been able to find out. That will come at a future time.

CHAIRMAN EWASUTYN: The lady in the back.

MS. SORRELS: My name is Pat Sorrels, I live at 503 Upper Avenue. I've lived there for twenty-five years. We've been begging for sewers for years. We have no drainage in our streets. A lot of our water drains onto this land and when you fill it with houses it's going to have

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nowhere to go. These houses are going to be flooded, our houses are going to be less than they are now. You smell sewer every summer. I think it's unconscionable for you to put this development in until we have sewers. If they want to pay for something, don't worry about the intersections because the State is going to help you with that. We need sewers and we need drainage in that development.

MR. PIRGER: Again, how will this affect the nude bathing beach?

CHAIRMAN EWASUTYN: And that is something that will --

MR. PIRGER: It's at the end of Gargoyle Lane.

CHAIRMAN EWASUTYN: That's something that will be looked at, Mr. Pirger, at a later point in time.

CHAIRMAN EWASUTYN: The lady behind Pat who just spoke. Thank you.

MS. WISEMAN: My name is Sandy Wiseman. I've lived in my home next door to Pat for thirty-four years. For two years in a row during the Noreaster I pumped out of my crawl space over

DRISCOLL SUBDIVISION

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1  
2 twelve inches of water. This is the only two  
3 times this has happened. You cannot flush the  
4 toilet in my home and go get a drink of water.  
5 We have forty pounds of water pressure tested by  
6 the Town at the fire hydrant across the street  
7 from me.

8 We have all sorts of wildlife that has  
9 not been documented. We have Cooper's Hawks  
10 which I got a certificate from the DEC.  
11 They call these homes compatible to ours. Our  
12 homes are nowhere near this size. We will not  
13 ever be able to sell our homes. We have more  
14 than -- I figured out almost forty-four people in  
15 our development are retirees. Where do you  
16 expect them to go? That's some of my questions.

17 CHAIRMAN EWASUTYN: Thank you.

18 UNIDENTIFIED SPEAKER: They don't care.

19 MS. WISEMAN: I know they don't care  
20 but we've got to start caring. Our water is --  
21 those ponds, I walked that last week, my husband  
22 and I. We walked that whole perimeter. Go walk  
23 it, sirs. There's water under all the rocks.  
24 There's water all over. How is that land going  
25 to hold homes? It's not. You talk about having

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1 28  
2 Meadow Wind problems, and Meadow Winds which I  
3 know one of you gentleman just had an article in  
4 The Mid-Hudson Times about, well you're really  
5 going to have them now.  
6 CHAIRMAN EWASUTYN: Okay. Thank you.  
7 MR. PIRGER: How does it affect the  
8 nude bathing beach?  
9 CHAIRMAN EWASUTYN: The gentleman  
10 behind you. The gentleman behind you. You'll be  
11 next.  
12 MR. FOSPHON: My name is Eric Fosphon,  
13 I just recently moved to this area. I live at  
14 362 Gardnertown Road, just two houses from the  
15 side entrance there. Right now without any  
16 development the road gets flooded with any heavy  
17 rain. I'm not saying a storm but a heavy rain.  
18 The solution right now is very ingenious. Put  
19 some holes around it. With this development,  
20 when you get blacktop and grading we will get  
21 more of the flooding. How will that be resolved  
22 by the site engineer and the developer? By the  
23 way, I'm an engineer too so I know what I'm  
24 talking about. McGoey, Hauser I know, we occupy  
25 the same building.

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There are certain questions that I have and that I would like to see being addressed definitely on a technical basis.

MR. PIRGER: How does it affect the nude bathing beach?

CHAIRMAN EWASUTYN: This gentleman.

MR. NELSON: My name is Jacque Nelson, I live at 505 Third Street. I've lived there for two years. I got like two questions. The gentleman said that this borders Kroll. My house -- the back of my house is to that -- to where the development comes. I would like to know how far this is going to be. My home is the last one -- there's a couple of us right there. How far is this going to be away from where my home is, where the back of my property is? We have floods back there.

Another thing, the drainage that comes from Upper Avenue, it comes right down, and it's actually, my neighbor tells me, on my land. I got three grand kids and I came to the town supervisor's office about six months or so ago, maybe the end of '06, and asked the lady, his secretary, and she said this was supposed to be

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1 30  
2 corrected sometime in May. I've got three grand  
3 kids that go back and play with this nasty water  
4 coming back. I also have a five-month old baby  
5 that my wife just had that has to occupy this  
6 also. If you all build it where is this water  
7 going? Are you going to fix the drainage that  
8 comes down before you put these houses back  
9 behind ours?  
10 The traffic situation. You can't say  
11 that with these two entrances and a hundred and  
12 seven houses -- most people who live back in the  
13 Kroll area have two to three cars and two drivers  
14 in the home. You've got two entrances here. Has  
15 anyone drove out here on 300 going to the mall at  
16 12:00 on a Saturday or Sunday? You cannot say  
17 that this is not going to affect the traffic.  
18 It's going to make it four times worse. All  
19 you've got to do is come out here and drive  
20 around 300, come from my house and try to go over  
21 there to the store on Saturday or Sunday at 12:00  
22 or 1:00. You can't do it. It takes me -- from  
23 my house around the corner it takes me a half  
24 hour to get to Lowe's and I live on 505 Third  
25 Street. You're going to put a hundred and seven

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1  
2 houses. That means we're going to have two to  
3 three cars per house more and two exits. Excuse  
4 me. That's not going to work.

5 Like I said, I've got grand kids,  
6 right, that I have to keep away on my property  
7 from the drainage there. Like they said, if  
8 you're going to build the sewer, start up at the  
9 top and build the sewer all the way down through  
10 so our kids don't have to go out in the yard and  
11 we don't have to smell this stuff.

12 These houses are not compatible. I  
13 just bought my house and I just had my house  
14 appraised. My house appraised for \$305,000. If  
15 that house got appraised for \$500,000 I can't  
16 sell my house. I can't sell my house then and I  
17 just had my house appraised a couple weeks ago.  
18 There's no comparison to me looking at that  
19 picture. It's like the existing people paying  
20 taxes, you're just going to like bury us. It's  
21 like we don't count, we're not here. If they  
22 build this it needs to be compatible for  
23 everybody. Thank you.

24 UNIDENTIFIED SPEAKER: My name is --  
25 MR. DONNELLY: Excuse me if I could.



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Is it possible to show him --

CHAIRMAN EWASUTYN: The rear yard.

MR. WINGLOVITZ: Yes. I don't know exactly where you live.

MR. NELSON: Third Street. Right where your finger is at. Right there.

UNIDENTIFIED SPEAKER: Over to your right.

MR. WINGLOVITZ: The end of the cul-de-sac that touches the property. The cul-de-sac comes away from the property.

CHAIRMAN EWASUTYN: Excuse me. Right now we have to have a sense of order to the meeting. Is your first name pronounced Jocko?

MR. NELSON: Jacque.

CHAIRMAN EWASUTYN: Jacque. Thank you. Jacque had questions, Ross Winglovitz is addressing those questions. Jacque does have the floor so I ask we keep a sense of order to the meeting. Thank you.

Ross.

MR. WINGLOVITZ: If you abutted the property you were probably given a letter -- you should have been given a letter. We notified

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1  
2 anybody who abutted the property along this whole  
3 property line. We gave a letter, we had a  
4 meeting out at the site. We met with many of the  
5 landowners here, talked about where their houses  
6 were, where our houses were, what the buffers  
7 were. We have a preservation of existing trees  
8 that's proposed along the property line. There's  
9 also, in addition to that, a covenant that  
10 prevents us from removing those trees. So it  
11 will be in the deeds of the properties, it will  
12 prevent them from removing the trees along the  
13 property line. In certain areas where there  
14 wasn't a lot of trees that existed there was  
15 fencing proposed or additional berms and  
16 additional landscaping proposed. So if you knew  
17 about the property you should have gotten a  
18 notice. There was a whole plan that was worked  
19 out over meetings with the public, meetings with  
20 the town's consultants if you actually abut the  
21 property.

22 MR. NELSON: I moved in July '05. The  
23 only thing I ever seen about this was coming here  
24 tonight.

25 UNIDENTIFIED SPEAKER: The owner before

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you.

MR. NELSON: Kroll. I bought my property from the Krolls July -- the 5th of July '05.

MR. WINGLOVITZ: You should have gotten a notice. We'll be glad to meet with you. We did meet with a bunch of the property owners. We'll be glad to meet with you. If they bought the property, maybe it didn't come into your name before we did the mailings. We'll be glad to meet with you and show you what we've done.

CHAIRMAN EWASUTYN: The gentleman there.

MR. WHITLEY: Good evening. My name is James Whitley, I live at 504 Third Street. First I'd like to say I did not receive a letter at all. The only time I know about this is when a letter came in the mail. I work way in the City. I travel a lot. I work in New York City so I travel up here every day. I can't even go to the post office to pick up the letter. I knew from all my neighbors. We talked about it, okay. If I would have known about this project when I bought my house in 2005 -- we moved in like a

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1 35  
2 couple months before. I wouldn't have even  
3 bought my property up there. I would have just  
4 waited for this. I bought the property up there  
5 because it was cheap and it was costly enough for  
6 me and my wife.

7 Now, like he said, he got his house  
8 appraised. I got my house appraised last year  
9 and it was appraised at 325. Now you're saying  
10 now you're going to build this. Our property is  
11 going to jump from 325 and go down to 250. I  
12 can't even sell it so I might as well put it on  
13 the market now.

14 Regardless of what we say this is still  
15 being built. I don't know why I came here. I  
16 don't know why I came here. I'm going to go home  
17 and explain to my wife let's put it on the market  
18 and sell it.

19 Another thing. You come through the  
20 roads on Third Street, it's bumpy. I wouldn't  
21 have even moved there if I knew that was going to  
22 happen. They come and patch up little patches  
23 but it's still bumpy. They come through with the  
24 snow plow, rip up my whole concrete. I've got to  
25 lift it up myself and put it -- and throw it

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away.

Then talk about leaks. Everybody on my block knows I've got a lake in the back of my yard. A lake. It rains it's like two foot high in the backyard. I talked to all my neighbors about it. They said there's nothing you can do because the guy on the corner has a suit -- have a problem with the City and with the Town and nothing is happening there, so I left it alone.

All of a sudden we got the mail, I don't know nothing about this project. I received nothing until last week wjem a gentleman told me.

I have two children. How are you going to tell me with a hundred and seven houses you're going to calculate only ninety-four children is going to occupy there? So therefore the people that is buying the homes, they are limited to have one children? What is that going to do for Gardnertown and for me to get my kids in school? I have to wait for a list to see how many kids is in Gardnertown School or I have to take them to the city. What's going to happen now when you bring these a hundred and seven people in? I live so far and I work so far in the Bronx I get

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1  
2 up here late. These hundred and seven people are  
3 going to get my spot and I have to transfer my  
4 children to the City of Newburgh. I moved from  
5 the city to come here to the Town to raise my  
6 children well and have a good life.

7 CHAIRMAN EWASUTYN: Ross, do you want  
8 to discuss how you came up with the figure of  
9 school-age children and how that's done?

10 MR. WINGLOVITZ: There are many  
11 national standards -- I don't know if anybody is  
12 going to listen to me. There are many national  
13 standards that have been developed, and the Town  
14 has actually asked us numerous times to check  
15 those standards against what's happened locally  
16 to see if there's reality in those numbers. The  
17 number is just slightly less than .9 or slightly  
18 less than 1 child that goes to school per  
19 household. There are more kids but some of them  
20 are older, some of them are younger, some don't  
21 have any kids. When you average it out it comes  
22 out to .9 children per household. Some kids go  
23 to private school. There's a bunch of different  
24 things that are going on. We've checked those  
25 multipliers against what's happening locally and

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2 we found that they've been consistent and  
3 actually slightly high. We found it all over the  
4 county with all new subdivisions. When you look  
5 at these houses they may be older communities.  
6 We've done it looking at new subdivisions that  
7 were just built and just fully occupied and what  
8 they came up with is very consistent with what's  
9 proposed.

10 MR. WHITLEY: So I'm saying -- you're  
11 saying after the people move there you're going  
12 to study -- when the people move it's ninety-four  
13 children from the hundred and seven; right? When  
14 I moved there he didn't have -- his kids is as  
15 old as me. He just had a newborn.

16 MR. PIRGER: We're not including the  
17 people that already live here.

18 MR. WHITLEY: He just had a newborn.

19 CHAIRMAN EWASUTYN: What he's doing is  
20 explaining to you how they come up with the  
21 figures they come up with for school-age  
22 children, and those are figures that are accepted  
23 in the industry as standards.

24 MR. WHITLEY: Okay. I'd like to ask  
25 one more question. Excuse me. One more

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1 39  
2 question. I just want to know what is this  
3 hearing about? When I go home I would like to  
4 explain to my wife exactly what's going on. I  
5 thought this hearing was about is this going to  
6 be built or not going to be built. I sat here  
7 and I listened to the gentleman speak. It sounds  
8 like it's going to be built. I want to know if  
9 it's going to be built.  
10 CHAIRMAN EWASUTYN: Mike, would you  
11 explain.  
12 MR. PIRGER: That's what he said.  
13 CHAIRMAN EWASUTYN: Mr. Pirger, I'm  
14 going to ask that you please refrain from making  
15 comments.  
16 MR. PIRGER: I am not saying a word.  
17 CHAIRMAN EWASUTYN: Thanks.  
18 MR. PIRGER: I just want to know how  
19 this is going to affect the nude bathing beach.  
20 I am not here representing myself, I'm here  
21 representing John Corbett who lives on Gargoyle  
22 Lane.  
23 CHAIRMAN EWASUTYN: Okay. That comment  
24 will be addressed later on in the process.  
25 MR. PIRGER: Right on.



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CHAIRMAN EWASUTYN: Thank you.

MR. PIRGER: Right.

MR. DONNELLY: Sir, the purpose of the hearing is twofold. It's to hear your comments on issues --

MR. PIRGER: I'm listening to you.

MR. DONNELLY: -- like had been raised, drainage, proximity and traffic and --

MR. PIRGER: That's nonsense.

MR. WHITLEY: Excuse me. Excuse us for a minute.

MR. PIRGER: Excuse me, sir.

CHAIRMAN EWASUTYN: Mr. Pirger, Mr Pirger. You have to refrain --

MR. PIRGER: You shut me down. When I was here when the garbage was being built behind my house you shut me down. What's going on?

CHAIRMAN EWASUTYN: Sir, if we can't keep a sense of order I'm going to have to ask for assistance here.

MR. PIRGER: I'm well in order.

CHAIRMAN EWASUTYN: Thank you.

MR. DONNELLY: We want to hear comments from members of the public --

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MR. PIRGER: I ain't saying another word.

MR. DONNELLY: -- then they'll be included in a follow-up study called a Final Environmental Impact Statement. Your question about whether this is going to be approved, I don't think anyone can answer that question. You must realize that the Town Board has zoned this property for residential development and in all likelihood some level of development will be permitted.

The purpose of the review process is several layers. To make sure that the project complies with all of the provisions of the ordinance. Next, to make sure that any environmental impacts that a project like this will create are mitigated or minimized to the maximum extent practicable. That's the next layer. And then finally, the idea is for the Planning Board to ensure that the layout is appropriate and represents good planning. That doesn't mean that this plan that's on the board right there in that layout or in that configuration will be approved. The purpose of

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the process is to see what needs to be changed, what impacts need to be addressed. Some project is likely at some point in time. We want input so that the study can continue and so that some level of review of the appropriateness of this proposal can be accomplished.

MR. WHITLEY: Okay --

CHAIRMAN EWASUTYN: Thank you. Sandra.

MS. KISSAM: Thank you for recognizing me. I live on Union Avenue. My name is Sandra Kissam, I live at 1261 Union Avenue up from the Kroll development about a minute or two.

I'm going to make some preliminary comments this evening and I plan to submit written comments within the ten-day comment period that you are providing.

The developer's environmental review does not discuss this but the Planning Board knows this to be true. We are in a community that is being allowed to densely develop to our detriment. We are losing all our open spaces, our air quality is worsening, our traffic is holding us up everywhere we go, our capital expenses are increasing, our taxes are

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2 increasing, and yes, we are looking worse every  
3 day. As the Planning Board for our Town you do  
4 not appear to be concerned with the long-term  
5 consequences of your actions and seem to see your  
6 role as only administering the regulations and  
7 including the public only so far as you must as  
8 you basically way almost every proposal through  
9 the gate.

10 I want to respond to this gentleman  
11 asking whether this is going to be built. It is  
12 basically in the hands of people who live in this  
13 Town to take the action to make sure that it is  
14 certainly not built the way it's being proposed,  
15 if it's built at all. If you're willing to  
16 organize and do what you can, you might have a  
17 tremendous impact on this project. I just wanted  
18 to say that. I believe you can.

19 To continue. Now for some particulars.  
20 The document says the developer will mitigate  
21 wetlands but I saw no specific plan described.  
22 The Army Corp is not listed as an involved  
23 agency, and why is that? It seems they are.  
24 That was in your list of involved agencies in the  
25 front of the D.E.I.S. Apparently the land in

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2 question is a drainage area for the Quassaick  
3 Creek which runs on the property and is a  
4 tributary to the Hudson River. This will be  
5 impacted by the project. There needs to be a  
6 greater discussion about this in the E.I.S., not  
7 only regarding the construction but also  
8 regarding the impact of turning a rich woodland  
9 into a dense residential area.

10           Furthermore, I read in the E.I.S. that  
11 the place is criss-crossed with rock walls. If  
12 it's criss-crossed with rock walls I find it hard  
13 to believe there are no artifacts because clearly  
14 it must have been occupied at least in the past  
15 century or two.

16           The fiscal analysis once again  
17 downplays the impact on schools and services.  
18 Yes, there will be more taxes paid but what about  
19 expenses to the total community. In this  
20 connection I saw no actual analysis of the  
21 portion the developer intends to pay on the sewer  
22 trunk he's counting on being built. And by the  
23 way, that very cavalier remark about will  
24 contribute towards this or will contribute toward  
25 that, it doesn't mean a thing unless it's written

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and put on paper.

I have more to say about that trunk line but first I want to say the discussion of the Indiana Bats as an endangered species, and there is a subtle way in which the text of the D.E.I.S. tries to give you the impression that the Indiana Bat is not endangered and doing very well, but the discussion on the Indiana Bat is out of date because they mention an Ulster County roosting location and another one which is out of our area. Since this E.I.S. portion was written the Indiana Bat has been discovered in the vicinity of the Stewart buffer lands, and I know this because our organization saved those lands and that was a big deal. They have to look at a radius of so many miles and the developer has to do a report, a biological report. I believe there is an actual error in that text in which they say that the bat only roosts in dead trees. I don't believe that's true. I might be wrong but I think it roosts in any kind of trees that have loose bark, such as the hickory.

The scope comments which normally and very often are included in the E.I.S. were not.

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I would advise that the scoping session remarks and the scope itself be included. I have to now ask for a separate copy of the scope. For your information, what's in the scope, which is like the table of contents, is supposed to be covered and studied in the D.E.I.S.

Now regarding this trunk line. I saw that it said in the text that a trunk line had been proposed in 1992, which is about fourteen or fifteen years ago, and that the SEQRA had been done on it. So I asked for the documentation, and SEQRA had been done on it, yes. It had been negatively declared as having any kind of an impact. So this proposal was declared a neg dec as they say in lingo. That means that a project -- let me explain about sewer lines. You've heard of Trojan horses. Now you can use sewer in the neighborhood no question. That's because when those homes were put in that developer didn't give a damn either so he put you on wet land to begin with. All right. So you're stuck with what you have. So you could use some sort of sewer collection system. If you put a sewer line on Plattekill Turnpike, and the destination

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2 of this line is supposed to be as far as Holtz  
3 Corners, Route 300 if you will, up there near  
4 Chadwick, that means that all the zoning  
5 regulations are immediately made more dense and  
6 all kinds of multiple housing and all kinds of  
7 tighter buildings can be put in with much more  
8 residential -- much closer residential  
9 development, much more residential development  
10 per acreage, and the whole thing becomes an  
11 opportunity for the developer to make a killing  
12 because he can really squeeze everybody in. And  
13 it also serves the industrial park up there on  
14 Jeanne Drive because then they can start really  
15 expanding their area there. Meanwhile you know  
16 there's a development that's going in where the  
17 Gardnertown Farms is, and that's going to be  
18 what, condominiums. That's going to be  
19 multiple-family housing. So we're going to end  
20 up with a sewer line which brings us way far away  
21 from any kind of rural landscape of any kind  
22 whatsoever. Now --  
23 CHAIRMAN EWASUTYN: Sandra, I'm going  
24 to allow you five more minutes.  
25 MS. KISSAM: I probably don't need it



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but thank you.

CHAIRMAN EWASUTYN: Just to put you on notice. Thank you.

MS. KISSAM: So this sewer line which was squeezed through during Bob Kunkel's supervisory capacity back in 1992 is in fact not -- has not in fact been studied, and the impacts of changing the density which comes with public sewer and public water has not been studied at all. I submit to the Board and to everyone here that as part of this D.E.I.S., if they're going to put some kind of money into the sewer line that they should do a supplemental E.I.S. to at least discuss the impacts of the sewer line on the whole rest of the neighborhood. I want to leave you with that.

I'm done for now and I'll submit written comments before the ten days are up.

CHAIRMAN EWASUTYN: Okay.

MR. FISCH: My name is Bob Fisch from 519 Third Street. First I want to apologize to the Board for outspeaking before. I got a little upset.

Sandy, you did a fabulous job.

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MS. KISSAM: You have to learn it fast.

MR. FISCH: I'm one for growth but we've got to work smart. We're going in with a new mall, we're going in with homes up in Meadow Hill, we're going home faced with this. I live in the Kroll development. I'm being told for years, since the days of Bob Kirkpatrick, that the Town has no monies to maintain the roads and give us sewers and what we need in this Town, but yet we keep on expanding and we expand because we have developers say we're going to do these kinds of things for the Town. That's great but what happens when he makes his first million and now the Town owns the headaches? Are we going to not be able to afford them either?

I live in the Kroll development. This particular development, the developer came in my backyard and promised me the world. I didn't see anything in writing nor do I see it proposed to the Town Board here. I was told that there was going to be a fifty to a sixty-foot buffer. It turns out it's going to be a ten-foot buffer. I was told that my wetlands in my backyard that runs down from Upper Avenue and the rest of Third

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2 Street was going to be tied in to their sewer  
3 plant, okay, and that they would go ahead and  
4 landscape and do whatever needs to be done to  
5 make me happy. They want to put a fence in my  
6 yard or go ahead and put in some nice bushes.  
7 The fence would be on my property, I would  
8 maintain it, I would end up paying the taxes.  
9 This is all promises, okay. I hope that this  
10 developer is not just promising you folks.  
11 I'm at the mercy of this Board to  
12 really take a look at not only this development,  
13 okay, but take a look at the whole proposal of  
14 the Town of Newburgh and the growth. We are  
15 moving strong forward. We can't afford the  
16 growth that the people are wanting us to do. We  
17 can't. Something has to give.  
18 The road -- I outspoke before. The  
19 town supervisor told me that the State made that  
20 traffic light exist and that they stopped the  
21 road from coming in on Union Avenue Extension  
22 over at the Y. They also told me that the State  
23 was going to go ahead and put in the left-hand  
24 turn there eventually, okay. So I'm hearing  
25 something from the town supervisor and now I'm

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1 51  
2 hearing something different from this developer  
3 that they're not going to do anything with the  
4 help from this developer. Again, I'm at the  
5 mercy of this Board along with everyone else  
6 here. We can complain all night long, okay, and  
7 that's what it's not about. It's about the Town  
8 and what we do with the Town. Your Town is our  
9 Town and vice versa. We need to look at it and  
10 we need to look at it smart.  
11 The roads. We can't handle the roads.  
12 When that new mall goes in, and I know it's going  
13 in, Union Avenue is being built up now, they're  
14 only looking at a couple of little traffic lights  
15 for impact. That's not enough. We need to look  
16 at the whole perspective of what's going to  
17 happen. Ulster County is growing, Orange County  
18 is growing, and definitely the Town of Newburgh  
19 is growing. I love it to grow but we need to  
20 look at our environment right now.  
21 I have turkeys, I have buzzards, I have  
22 everything coming in my backyard. They need to  
23 live, too. We need to live, they need to live.  
24 I was told DEC and these guys would move them.  
25 They're not going to move them, they're going to

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2 vacate them. That's not right. I bought my  
3 house to enjoy my woods. Now it's going to be  
4 flattened down.

5 Again environmental impact. They're  
6 removing most of the trees there. Where is the  
7 water table going to go? The Town can't help us.  
8 I'm looking at you folks just to turn around and  
9 look at these people and say hey listen, we're  
10 going to do our very best to make it work for the  
11 Town and not just for this developer. I  
12 appreciate your time.

13 CHAIRMAN EWASUTYN: I would like to  
14 pause for a second because if we all are  
15 listening to what everyone has to say, we share a  
16 concern about some major environmental issues  
17 that Mr. Donnelly spoke about earlier which was  
18 part of this whole SEQRA process. We talked  
19 significantly about drainage, we talked  
20 significantly about traffic.

21 James, there was a question of school-  
22 age children and we tried to give you the formula  
23 for factoring in that multiplier.

24 I'd like to stop for a minute and have  
25 some experts talk a little bit about how they're

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looking at drainage.

Bob, I don't know what agreements were made out in the field between yourself and the applicant as far as how they were going to drain your property. I know there were some discussions in the document talking about screening. I know there were some discussions talking about fencing, and we can discuss that.

I'd like to talk about now, and we're bring the public along in an informational sense, about drainage, how it's looked at; and traffic, how it's looked at; and to give you sort of the rationale. There's no denying the fact that the Town of Newburgh probably is the most active community in Orange County as far as the development. There's no denying the fact that when you drive up Union Avenue now you see what the Thruway Authority is establishing for providing for what the Town has considered to be the crossroads of the Hudson Valley. So there's sort of a link as to what's going on.

Sandra has been very active at Stewart. Now there's discussions -- I don't even know the true facts about what is going to happen with

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Stewart. Is it going to become a cargo airport and the impacts of Stewart becoming a cargo airport, the truck traffic. We're not involved in that, that's a State process.

Let's start talking about how we've been looking at drainage, how things have been going back and forth, the studies.

The issue of sewer, that's really a Town Board agreement on this project. I'm not going to spend a lot of time going back and forth. Sandra talked about Bob Kunkel introducing sewer, how it's moved along with the Town, what kind of agreements. These are Town agreements so I can't speak on that, nor will we speak on that at this time.

Let's start with drainage. We'll bring Phil Greely along on traffic. We have Pat Hines who represents the people here of the Town on drainage. We have Ken Wersted in the back who represents you people as far as traffic. They make recommendations to the Planning Board. The Planning Board does represent the people of the community. There is a balance to this. We do give a lot of time. There's a lot of concern

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2 about it. So let's start discussing it in an  
3 educational forum. That's how I really think the  
4 purpose of meetings are, to be educational.  
5 That's why I put my time in, for the learning.

6 MR. WINGLOVITZ: Drainage. As I had  
7 indicated in my presentation, our site is  
8 actually lower entirely than the Kroll Acres, so  
9 none of our water is going to go onto the site.  
10 I guess I hear the concern is they have existing  
11 problems and what can we do to help them. I can  
12 tell you we're not going to hurt them. We're not  
13 putting drainage onto your property. All the  
14 drainage on our site remains on our site and it's  
15 collected into our system. One of the areas that  
16 was identified by the town engineer as a problem  
17 area is an area at the end on lots that were  
18 owned by Kroll originally. I don't know who they  
19 are currently owned by. He asked us to provide  
20 an easement and drainage swale to relieve the  
21 ponding that occurs on the north end of Kroll  
22 Acres along our property. We are doing that. So  
23 that will in fact help the drainage in that area  
24 specifically.

25 Within the site all these houses are



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2 draining water to the road, so any drainage that  
3 comes onto our site will be collected in those  
4 swales, will be brought into the roadside  
5 drainage systems and treated in the ponds before  
6 it's discharged into the creek. So there's been  
7 a comprehensive look at drainage and any problems  
8 that we could potentially resolve. Again, this  
9 one on the north end is one that was brought  
10 specifically to the attention of the town  
11 engineer, it was brought to our attention and we  
12 are providing an easement to allow drainage  
13 improvements that will relieve that problem.

14 The rest of the drainage will be  
15 allowed to come onto the site as it always has.  
16 There's a large drainage swale that leads from  
17 Kroll Acres here. That's not being touched  
18 except for one crossing. The area around that is  
19 being preserved.

20 CHAIRMAN EWASUTYN: Again, before we go  
21 I'd like to have people talk on their behalf and  
22 then we'll bring it back. Pat Hines who  
23 represents the Planning Board and also the people  
24 of the Town will talk about how he is looking at  
25 their drainage reports. When we begin talking

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2 about traffic, we've have the traffic  
3 consultants. As Sandra had said, have we nailed  
4 down the fair share contributions as far as the  
5 improvements to some of these intersections.  
6 They have not been clearly defined at this point  
7 but they will be as the process moves forward.  
8 Right now we could say it is open ended.

9 Pat Hines.

10 MR. HINES: We are taking a look at the  
11 stormwater management on the entire site. I am  
12 taking notes tonight. I heard members of the  
13 public bring up various issues that we will  
14 incorporate into our review. We're reviewing the  
15 project under both the Town's stormwater  
16 regulations and the Department of Environmental  
17 Conservation's stormwater regulations, both of  
18 which require control of both quantity and water  
19 quality on the site. That's being done through  
20 the installation of a collection system and the  
21 design of several stormwater management ponds  
22 that will treat the stormwater prior to discharge  
23 to the creek for both water quantity and quality  
24 control.

25 We're currently performing that

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2 technical review. We've provided comments based  
3 on a review of the scope. We've provided  
4 comments and the stormwater management report was  
5 revised based on those comments. Now we're going  
6 through a technical review following each of the  
7 various watersheds through the site, reviewing  
8 the computer models to make sure they comply,  
9 that the computer data entered in complies with  
10 what's actually on the site conditions and that  
11 we're following that drainage through the water  
12 quantity and quantity treatments on the site.  
13 I have heard the comments tonight. We will take  
14 a look at various tributaries from the Kroll  
15 development.

16 I heard the comment regarding  
17 Gardnertown Road. I'll be contacting the highway  
18 superintendent to get his input on that to see if  
19 there is anything this project can do and to make  
20 sure this project doesn't further exacerbate that  
21 problem that was identified.

22 We have a consultant that works for my  
23 office that's been working through my office for  
24 the Town reviewing the impacts to the Quassaick  
25 Creek corridor. He's very familiar with that.

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2 He's a Ph.D. who works in the area. He's  
3 assisted the Town on The Market Place evaluation  
4 and provided numerous comments on that project.  
5 He's currently looking at this project with  
6 regard to impacts to the Quassaick Creek as well  
7 as the flora and fauna impacts. He's an Indiana  
8 Bat guy, he's very familiar with that and has  
9 other experts he works with. He's looking at  
10 those issues that were mentioned earlier.

11 We are doing a comprehensive review of  
12 the drainage. There will be a series of  
13 technical comments from my office that will have  
14 to be addressed in the Final Environmental Impact  
15 Statement as well as all your comments tonight  
16 regarding drainage, they'll have to be addressed  
17 in the Final Environmental Impact Statement.

18 We're looking at the project with  
19 regard to other engineering details, water,  
20 sewer, wetlands impacts.

21 As the applicant's representative  
22 stated tonight, we have not seen the  
23 jurisdictional determination yet. They have I  
24 guess received it recently. We'll be reviewing  
25 that as the project moves forward with the design

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2 of the stormwater management and the impacts to  
3 the wetlands. There's a portion of this project  
4 utilizing what's called isolated wetlands as  
5 their mitigation area. We'll be working with the  
6 applicant and the Army Corp of Engineers to make  
7 sure that's a legitimate way to mitigate their  
8 wetlands impacts.  
9 We provided comments on phasing and the  
10 project has been revised somewhat with a phasing  
11 plan to identify how the project is going to be  
12 constructed and what impacts are associated with  
13 that.  
14 Along with the drainage there is a  
15 flood plain along the Quassaick Creek. We're  
16 evaluating impacts to that, making sure that the  
17 culvert sizing for the crossings of those  
18 wetlands and the creek are appropriate and won't  
19 cause upstream or downstream impacts. We're  
20 looking at the design of those stream crossings  
21 with regard to impacts to Quassaick Creek for  
22 drainage and our consultant is looking at the  
23 impacts to fish and wildlife in that area.  
24 CHAIRMAN EWASUTYN: Thank you.  
25 I see your hand in the back. Why don't

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you rest your hand for awhile because we'll discuss traffic as the next issue. We're picking what seems to be the hot spots right now that the majority of the public has raised. I think it's a good point right now to discuss them openly.

Phil Greely is the traffic consultant for the project. He came up with the initial studies, then we'll introduce you to Ken Wersted who represents the Town of Newburgh as far as reviewing those numbers and those intersections.

Phil Greely.

MR. GREELY: Thank you, Mr. Chairman. Phil Greely, John Collins Engineers. We prepared the traffic impact study that's in the D.E.I.S. Just to give you kind a brief synopsis of what goes into a traffic study, it's not just a report that's just put together without certain guidelines that we have to follow that are required by the State Department of Transportation, the County and also by the Town. That study, as Mr. Winglovitz had mentioned, looked at ten intersections in the area to see what the impact would be of this project as well as to account for other developments that are

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either being built now or going to be built in the future. So part of the study is to go out and document what existing conditions are. That's done by traffic counts, both manual counts, machine counts, and we've done that in this corridor. That information is then used to look at the base conditions, what happens in the morning rush hour, what happens in the afternoon rush hour, what happens on Saturdays. Then we look at the future, what is the future going to be. We know what it is now. We know that there's problems here. We identified problems and we're in a position here to try to help solve some of the existing problems.

The step of looking at the future is you look at what growth would happen in this corridor. If there were no other specific developments here there's going to be normal growth. Whether it be in Ulster County or other parts of the Town, the traffic is going to increase along Route 300. In this study we also had to look at, as outlined in the scoping document and we talk about a scoping document, it identifies the need to account for other

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2 developments. We have The Market Place  
3 development that we have to account for, we have  
4 developments along Gardnertown Road and Route 32  
5 that have either been approved or are going  
6 through an approval process. Each of those  
7 projects, the traffic from those are then added  
8 onto the road system. There's a proposal for  
9 another development on the east side of Route 300  
10 referred to as the Polo Club. Those are all  
11 worked into the analysis that's put into the  
12 traffic study. So it's not just we come up with  
13 numbers and say okay, we're going to have X  
14 number of cars and there's no problem here. We  
15 look at all those statistics and we look at a  
16 future projection. Once we have that, then we  
17 have to analyze each intersection to see is there  
18 going to be a problem, is the problem that's  
19 there today going to get worse. For example, we  
20 focused on a couple of intersections that are  
21 problematic. When the State Department of  
22 Transportation restricted turn movements from  
23 Route 300 onto Union Avenue, the left-turn  
24 movements, now everyone that was making that turn  
25 had to come up to the signalized intersection.



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So now you have a signalized intersection that doesn't have turn lanes. If somebody stops to make a left turn, it stops the through traffic. That's a hindrance to current conditions. We analyzed that, identified it early on in the process as an intersection that even if this project never happened is going to get worse and it needs to be addressed. We have identified the need to put in left-turn lanes, both northbound and southbound. Right now if you look at -- for example in the last two years the intersection of 300 and Route 32 was upgraded, turn lanes were put in there. That was originally started by the State ten to fifteen years ago. They identified the need to do something there. So it takes a very, very long time if there is not information brought to their attention and that the Town can use to move forward.

Here we are as a developer, and as the Chairman said we don't know the exact number that we're going to put -- how many dollars we're going to have to put towards that intersection to improve it. However, we've identified, we've agreed and part of this process is to make sure

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2 that you mitigate your traffic. We can help have  
3 that happen in a much shorter timeframe. The  
4 State eventually gets around to it but you have  
5 to realize the Department of Transportation that  
6 covers this region, it covers eight counties,  
7 Westchester, Rockland, Orange, Dutchess, Ulster,  
8 Columbia, and everybody is pulling to get  
9 improvements. This is not the only intersection  
10 that's a problem in the area. In their minds  
11 this intersection is not very high on the list.  
12 There's a lot worse locations, a lot of  
13 accidents, et cetera. So we're trying to help  
14 move that forward. We've identified it, we're  
15 going to work with the Town, we've looked at it  
16 on a preliminary basis to make sure that it's  
17 feasible. Making that type of an improvement,  
18 intersection reconstruction, you're looking at  
19 least a half a million dollars to do something  
20 like that, just Route 300 and Gardnertown Road.  
21 The other intersection that was talked  
22 about is Route 52 and Route 300. That was  
23 already identified years ago by the Town as a  
24 problematic intersection. That is being moved  
25 forward. There are some other developments in

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the Town that are responsible to put monies towards that and to move that forward. We look at those as probably the two most critical intersections.

There's other things that will come out of this process that we will deal with but those are the major ones because if those don't function then we have problems. We have to look at our access, we look at sight lines and what needs to be done in terms of improvements. Those are kind of simple because it's down to a specific intersection.

The type of project that we're talking about here, single family, I think Mr. Fisch and Mr. Nelson had mentioned everybody has two or three cars. Yes, but when we have to do a design we look at a one-hour time period. Really what happens is you'll get about one car generated in a peak hour from each house from a single-family development. What happens is you may get that two or three hours in a row that somebody may leave earlier in the morning if you're working in the city, or if you work locally maybe you work later. Those statistics are pretty proven. The

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2 single- family developments are probably one of  
3 the best statistics because there's been so many  
4 studies done. We look at that, we look at what  
5 that traffic generation is over the course of a  
6 day or over the course of several hours. You're  
7 really looking at about a little over one trip  
8 per unit that actually gets out onto the road  
9 system.

10           Route 300 today has over eight hundred  
11 cars in the morning and probably close to a  
12 thousand cars that we'll have with the  
13 development that's occurring in the afternoon  
14 rush hour. So we need to have improvements, for  
15 example at the 300/Gardnertown intersection. The  
16 left turns are going to increase, the through  
17 traffic is going to increase. That's what we've  
18 identified, and we're going to work with the  
19 Town. Part of this process is to make sure it's  
20 not just oh yeah, we're going to put in our fair  
21 share. That comes out in the Findings Statement  
22 and the continuation of this process.

23           So we have identified problems, we'll  
24 work with the Town and we hope to be able to  
25 expedite moving some of these improvements to

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2 happen in a much shorter timeframe to help  
3 relieve some of the traffic conditions.  
4 That's pretty much the synopsis of  
5 what's in the D.E.I.S. There's a lot more that  
6 goes into it. We look at accidents, we look at  
7 three years of accident history to see if there's  
8 any problematic intersection accidents. That's  
9 all in the document. It's not just we're going  
10 to generate X number of cars. We look at school  
11 buses, we look at everything. That's what the  
12 Board is reviewing and what the continuation of  
13 this process comes out in terms of identifying  
14 what improvements need to be done.  
15 CHAIRMAN EWASUTYN: Ken Wersted who  
16 represents the Planning Board and the Town is our  
17 traffic consultant. I'll have Ken take the floor  
18 at this time.  
19 UNIDENTIFIED SPEAKER: All these  
20 consultants work for the developer; right?  
21 CHAIRMAN EWASUTYN: No. Ken Wersted  
22 and Pat Hines work for the Planning Board in the  
23 Town of Newburgh.  
24 UNIDENTIFIED SPEAKER: The Town pays  
25 them?

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CHAIRMAN EWASUTYN: Excuse me?

UNIDENTIFIED SPEAKER: The Town pays them?

MR. HINES: Yes.

UNIDENTIFIED SPEAKER: Do you agree with everything he's saying?

MR. WERSTED: Some are Mr. Hines' role in the project in terms of reviewing the information that's coming here. We're doing the same thing but for the traffic side. That's our expertise.

With the information that's coming in the applicant prepares a traffic study. It's a large expense and it's their responsibility to prepare that study. Our role is to review that for technical items, to ensure that they're looking at the right area, to also review the specifics that are in it to make sure they're using the right assumption and they're preparing their traffic impact study in accordance with standard industry accepted procedures and also with what DOT is looking for. Our role in the project is to basically take their work, check it and sign off or recommend that they modify it

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2 because we disagree with an assumption. Then  
3 they take that, revise it, provide us with  
4 additional responses and so forth, and that gets  
5 incorporated into the plan. This submission here  
6 is that initial document. The information and  
7 the comments that we provide back to them based  
8 on our review of this will get incorporated into  
9 the next submission as will the comments of  
10 specific concerns and so forth from the public  
11 also will get addressed into that later document.  
12 All that kind of comes together and that's the  
13 final document that we've reviewed and we've  
14 worked through those issues and so forth.

15 UNIDENTIFIED SPEAKER: You haven't done  
16 that yet so everything we're hearing tonight is  
17 from the developer really?

18 MR. WERSTED: For the most part. They  
19 are at the beginning stages. Obviously the  
20 scoping document and the document as it stands  
21 before us we've reviewed through that process to  
22 say okay, this is acceptable to this point and  
23 it's ready for the public to review it and  
24 provide your comment, then we'll take those  
25 comments and incorporate them and have those

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requested to be addressed by the applicant. I think Mr. Donnelly explained that earlier in the meeting.

UNIDENTIFIED SPEAKER: Do you live in the Town of Newburgh?

MR. WERSTED: No, I don't.

CHAIRMAN EWASUTYN: Sandra, you had the opportunity to speak so I'm going to provide others --

MS. KISSAM: I just wanted to comment about the --

CHAIRMAN EWASUTYN: Sandra, Sandra. You had an opportunity to speak. There are others who -- the gentleman in the back asked earlier, he's been raising his hand for the last ten minutes. I'd like to be courteous to him.

Sir.

MR. VASQUEZ: My name is Mat Vasquez and I live at 505 Upper Avenue. Unfortunately for me my house is a little bit different than most of the people who live in that neighborhood because my house was built on a vacant lot. Anyone who's driven by my house can tell, my house sticks out like a sore thumb. One thing



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2 I'm concerned with is everybody is talking about  
3 that this is basically an environmental impact  
4 that you've got to be looking at. Everyone here  
5 has told you what the environmental impact is  
6 going to be on the Kroll development. It seems  
7 to me like nobody is listening. You guys tell us  
8 that these people work for you.

9 MR. PROFACI: What do you think we're  
10 doing here? Do you not think we're listening to  
11 you?

12 MR. VASQUEZ: Can I finish?

13 MR. PROFACI: Please finish but I want  
14 you to know that we are listening.

15 MR. VASQUEZ: I understand you're  
16 listening. You may not be hearing.

17 MR. PROFACI: And I'm hearing perfectly  
18 what you say. So please tell us what the  
19 problems are so that we can try to mitigate them.

20 MR. VASQUEZ: One problem is I never  
21 got a notice for this meeting, okay. I had to  
22 find out from my neighbor and I live two doors  
23 down. I live right next to one of them. That's  
24 the first problem.

25 The second problem is how many meetings

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have you guys had on this?

CHAIRMAN EWASUTYN: Let me address one of your questions. When a public hearing like this is called for, the tax map parcels are provided to the town assessor's office. The town assessor's office comes up with the mailing radius of those people who are affected by this, and that's how the list is generated. It's not generated by the Planning Board, it's generated --

MR. VASQUEZ: Excuse me. Pat lives thirty feet from my front door. She got one.

CHAIRMAN EWASUTYN: Okay. The list -- I'm just answering your question.

MR. VASQUEZ: Fifty feet.

CHAIRMAN EWASUTYN: I'm just answering your question. The list is provided -- the list is provided by the assessor's office.

MR. VASQUEZ: Okay. How many meetings have we had on this project?

MR. DONNELLY: -- I would estimate eight to ten.

MR. VASQUEZ: Eight to ten?

CHAIRMAN EWASUTYN: Wait, wait. Let me

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2 explain something also. There is something that  
3 happened here that isn't a requirement that the  
4 Planning Board asked for very early on in the  
5 process. It's something that is being proposed  
6 by Pace University which has an outstanding land  
7 use program, and that's a meeting with the public  
8 in the early stages. It's called a  
9 collaboration. This was the first time a project  
10 of this size, which is very unusual, had a  
11 meeting, I think it was in January, a  
12 collaborative meeting with the people in this  
13 residence to talk about their early concerns. It  
14 happened even before the scoping document. So  
15 actually there's been another level of --

16 MR. VASQUEZ: How did people get  
17 notified about that meeting?

18 CHAIRMAN EWASUTYN: Sir, I'm just  
19 letting you know that there have been additional  
20 levels added to this that isn't part of the  
21 normal process. The Planning Board, as Mr.  
22 Profaci is saying, is always hearing from the  
23 public. The reason why we've added this early  
24 meeting was to bring the public in early to  
25 receive their comments.

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MR. VASQUEZ: Okay. We have the traffic guy up there who was talking about how they do all these studies about traffic. Now, if anyone reads the paper on Sunday, the real estate section, everybody knows Orange County is one of the biggest growing counties around. So we've all got to know that this isn't -- what he's telling us about this traffic study, he's telling us that there are eight hundred cars, nine hundred cars, I can't possibly see that because -- he's going to say that one car is going to leave those houses every hour. Most people who are going to move to move into that development right there are going to be people moving from the city who don't want to be in the city, they want to live out here in the Town, in the country. To get to the city there's no possible way that they're going to be able to leave one car every hour, every two hours to get to the city from here.

CHAIRMAN EWASUTYN: Thank you. I think we can't -- we can't argue points as far as whether you believe or don't believe the study is valid. These are professionals in their field,

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1 76  
2 they're experts in their field and these are the  
3 formulas that they come up with. We're not  
4 questioning the fact that you're doubting it but  
5 you have doubts and that's why we have  
6 consultants that review the hard data.  
7 MR. VASQUEZ: Okay.  
8 CHAIRMAN EWASUTYN: That's why I'm  
9 trying to explain -- we're trying to make it  
10 informative to explain the process.  
11 MR. VASQUEZ: You haven't even answered  
12 the first question.  
13 CHAIRMAN EWASUTYN: We're taking  
14 comments. As Mike Donnelly had said early on, we  
15 won't be answering those comments tonight but  
16 we'll be addressing them in the F.E.I.S.  
17 MR. VASQUEZ: Are they going to build  
18 that?  
19 CHAIRMAN EWASUTYN: In some form or  
20 fashion this project will be built because it is  
21 permitted --  
22 MR. VASQUEZ: Can you answer me one  
23 other question?  
24 CHAIRMAN EWASUTYN: -- it is permitted  
25 under the zoning regulations.

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MR. VASQUEZ: It's permitted under the zoning?

CHAIRMAN EWASUTYN: Right.

MR. VASQUEZ: The Town Board is supposed to be representing the people; correct?

CHAIRMAN EWASUTYN: Right.

MR. VASQUEZ: Okay. I just want to clarify that.

CHAIRMAN EWASUTYN: I'd like to just summarize the meeting and hear from those who have a comment as far as an issue that we have not looked at. We spoke about drainage, we spoke about traffic, we spoke about school-age children, we talked about fair share contribution, we talked about the fact that this is permitted under zoning and at a certain size this project will be built. I'd like to bring the meeting to a close --

UNIDENTIFIED SPEAKER: Excuse me.

MS. KISSAM: This is a public meeting. If people want to repeat issues they have a right to do it.

MR. PROFACI: Sandra, will you stop yelling at us. Why do you have this attitude

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towards us?

MS. KISSAM: We have a public meeting and every single comment that anybody here wants to say -- if they say the same comment as someone else they have a right to do it, then you know it's a very --

CHAIRMAN EWASUTYN: It was explained early on --

MS. KISSAM: How dare you make up the rules as you go along with our only public meeting on this project.

CHAIRMAN EWASUTYN: There's a ten-day written comment period.

The gentleman in the back.

MS. KISSAM: You should hear everyone out before you close this meeting, absolutely without a doubt, no matter what they say.

CHAIRMAN EWASUTYN: Sandra, I'd like to maintain order to the audience. Thank you.

The gentleman in the back.

MR. SORRELS: My name is Richard Sorrels, I live at 503 Upper Avenue in the Kroll development. A couple minutes ago you said that the decision regarding the sewer trunk would be

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made by the Planning Board.

CHAIRMAN EWASUTYN: I did not say that.

MR. SORRELS: I'm sorry. The Zoning --

CHAIRMAN EWASUTYN: Town Board.

MR. SORRELS: Okay. I'm sorry. I got my boards mixed up. The only comment that I'd like to make is prior to even 2000, this is going back maybe ten years ago right after we put in a new septic system at our house because the original one failed because of the lousy drainage. Everyone was very sympathetic, don't get me wrong. They understand it's all clay and shale up there and it's not good drainage. Anyway, I started attending meetings up at the Cronomer Fire Department because they were discussing at that point a sewer trunk line extending up Union Avenue. A number of us in the Kroll development were concerned and, you know, frankly hopeful that maybe this trunk line being extended up Union Avenue would also incorporate into finally getting a sewer system in through the development. When addressing the meeting that night I was told that I had to understand that there were some very serious environmental



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2 issues. The two areas they were looking at for  
3 extending the trunk line at that point were  
4 Orange Lake and up Union Avenue, but I was told  
5 that I had to understand that there were some  
6 important environmental issues up in Orange Lake  
7 that needed to be addressed that were possibly,  
8 you know, more needy than those of us in the  
9 Kroll development. Be that as it may, I can  
10 understand that.

11 I was just curious, did they ever  
12 extend the trunk line up to Orange Lake because I  
13 know they didn't extend it into Kroll?

14 CHAIRMAN EWASUTYN: My understanding is  
15 there is sewer on the east side of Orange Lake  
16 that has been installed within the last five or  
17 six years.

18 MR. SORRELS: Okay. I applaud that  
19 since it needed it. If six or seven years ago a  
20 number of us were addressing the Town Board for  
21 some kind of relief in the way of a sewer system  
22 in the Kroll development and at that point they  
23 already recognized it as an area in need for just  
24 that, why is it that seven or eight years later  
25 there's not even a plan to put sewage in there

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2 yet we're going to establish a new trunk line to  
3 establish sewers for a new development? I don't  
4 understand.

5 CHAIRMAN EWASUTYN: Mike, do you want  
6 to speak on that?

7 MR. DONNELLY: Very often  
8 infrastructure, water lines, sewer lines and  
9 roadways, come about not because the municipality  
10 builds them but because developers do. You're  
11 addressing a sewer deficiency in an existing  
12 development that the Town Board, if I understand  
13 you correctly, was hearing comments about the  
14 advisability, the cost and the environmental  
15 impacts of serving that currently unserved area  
16 with a new sewer trunk line. What you're seeing  
17 here is a developer who is willing to put in a  
18 sewer trunk line that has already been approved  
19 in order to serve this development. If there's a  
20 way that that can be connected to other  
21 developments along the way, that would of course  
22 greatly reduce the cost to the Town Board of  
23 providing that line. I do not know whether this  
24 particular sewer trunk line, if it were to be put  
25 in, would assist in that task but it would

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certainly lessen the cost to the taxpayers to serve your area.

MR. SORRELS: Okay. I appreciate that. Could I just suggest that when they do look at this, perhaps the Town could also look into a way of perhaps altering the trunk line that's being put in there to pick up some of the neighborhoods that have been paying taxes for the last twenty-five years that still need a sewer?

UNIDENTIFIED SPEAKER: Fifty years.

CHAIRMAN EWASUTYN: Ross.

MR. WINGLOVITZ: I think I'll editorialize a little bit because I wasn't there in 1992 but that was part of the reason that the original trunk line was proposed. It was actually funded and it was actually permitted by the DEC because there are areas such as Kroll and other areas as we go up 300 that have similar problems that you folks do. The problem after that became approved is the funding of that. That is a very, very, very expensive proposition. What would normally happen is you people would be in a district. That district would be taxed and people there would be paying or you people would

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1 83  
2 be paying the millions of dollars it's going to  
3 cost to make that improvement. I don't think --  
4 my guess is the Town Board didn't think that was  
5 a good idea because it was financially probably  
6 not very feasible to do at that point.  
7 What we're proposing is we, at our cost  
8 and expense, are going to build that line up  
9 through this property with the collection system  
10 that goes throughout our property. The Town  
11 Board sees then an opportunity in the future so  
12 now that large cost has been taken up by this  
13 property, it won't be levied against the property  
14 owners. Basically it's an opportunity now for  
15 them to connect you folks. That's the whole  
16 reason this trunk line was approved, proposed and  
17 permitted in the 1990s was because of  
18 developments such as yours. So that is the  
19 forward thinking that was put into that. The  
20 unfortunate part is funding and cost. This  
21 subdivision and the applicant has agreed that  
22 they're going to pay for this cost. It's not a  
23 fair share contribution. The applicant is paying  
24 for the entire cost of that with no cost to the  
25 Town for that.

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CHAIRMAN EWASUTYN: The gentleman with the beard. Thank you. I apologize.

MR. WISEMAN: My arm was going to sleep. My name is Bill Wiseman, I live at 501 Upper Avenue. This is the first time I've been advised of the meeting also and my front window looks out at what will be this development eventually.

I found about fourteen things wrong with the narrative statement that I felt in the D.E.I.S. statement. I'm going to address those in writing to you. There's a couple things I would like to make you aware of, though.

One of the statements that you made in your water system plan was you did a test on a fire hydrant at Jeanne Drive and you arrived at 50 pounds pressure per square inch. The hydrant across the street from my house on a not busy day at mid day pressure was 40. Now if you're going to take 72,000 gallons of water in addition for these two developments, the one here plus Polo, it seems to me I won't have the same kind of water that I presently have. I can't take a shower and flush the commode. I can't take a

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1 85  
2 shower and get a glass of water. There is just  
3 not enough water pressure.  
4 Secondly, you talked about the  
5 stormwater mitigation to the engineer over here.  
6 All of these houses that are in front of my  
7 house, Ms. Bandora and the rest of the people  
8 that live on Upper Avenue, they're on a slight  
9 rise as I am. To me water runs downhill. If I  
10 flush that toilet it goes into the septic tank,  
11 the overflow eventually goes through the leach  
12 field and out the fingers and then it goes down  
13 that hill right into their development. That's  
14 what the catchment ponds are. I want somebody to  
15 do a water test now on what the bacterial level  
16 is in those ponds because I don't think you're  
17 going to find it's just water. It's pretty gray.  
18 My wife and I walked down there the other day and  
19 there were soap suds in some of those puddles. To  
20 me that's not stormwater, that's some other kind  
21 of water. I think you ought to check that.  
22 These I'll leave with you.  
23 CHAIRMAN EWASUTYN: There's a ten-day  
24 written comment period, Bill. What I suggest you  
25 do rather than taking time this evening is

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1 86  
2 submitting them after the meeting.  
3 MR. WISEMAN: No problem.  
4 CHAIRMAN EWASUTYN: We'll work it  
5 accordingly.  
6 MR. WISEMAN: Can I drop it at the  
7 Planning Board office?  
8 CHAIRMAN EWASUTYN: Most definitely.  
9 If you want you can give a copy to Mr. Winglovitz  
10 this evening while you have them. Why don't you  
11 do that.  
12 MR. WISEMAN: I have an extra copy I'll  
13 give to him.  
14 CHAIRMAN EWASUTYN: Why don't you give  
15 Ross a copy this evening and then you could  
16 forward on to the Planning Board and we'll make a  
17 point of distributing those.  
18 MR. WISEMAN: I thank you for  
19 listening.  
20 MR. HINES: John, you may want to tell  
21 them your office has moved.  
22 CHAIRMAN EWASUTYN: Do you know where  
23 our office is located now?  
24 MR. WISEMAN: I do now.  
25 CHAIRMAN EWASUTYN: Thank you. It will

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2 be there until the 18th of this month and then  
3 we'll be going back.  
4 This gentleman here has been waiting to  
5 speak. Sir.  
6 MR. McMURTRIE: My name is Mr.  
7 McMurtrie, I live at Third Street and Gardner  
8 Street at the point. Let's see, I've been there  
9 about thirty years. About thirty years. I've  
10 been flooded. My property gets flooded away. I  
11 have some kind of system going around my house, I  
12 don't know what it is. Mosquitoes, the sewer  
13 stinks, pollution. Where is this all coming  
14 from? The Town of Newburgh I hear all kinds of  
15 talk, you's do nothing. The reason why I say  
16 that is because I hired a lawyer and I hired an  
17 engineer. Now it costs me a lot of money for an  
18 engineer. It costs me since 2004 and 2005 I'm  
19 fighting the Town of Newburgh to do something  
20 about the drainage system. They do nothing.  
21 They just ride me and say we'll take care of it,  
22 we'll take care of it. It costs me money, money,  
23 money, money, money. The money I spent and the  
24 money I got out of it was nothing. Nothing. So  
25 all these people here talk water, you know what



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1 88  
2 I'm talking about? You people around here know  
3 water. You better believe it. Mosquitoes. I  
4 called the Board of Health in Goshen. They come  
5 down, everything is all fine, nothing is wrong.  
6 I get bitten by mosquitoes and I can't have  
7 barbecues because the water is coming from the  
8 top of the hill.  
9 UNIDENTIFIED SPEAKER: It's not just  
10 water.  
11 MR. McMURTRIE: Where is it coming  
12 from?  
13 UNIDENTIFIED SPEAKER: It's coming out  
14 of the floor of my basement.  
15 MR. McMURTRIE: So what am I supposed  
16 to do? I talk to the engineers. I hired an  
17 engineer, they come down, they look, we'll put  
18 sewer past your house. I have a bilevel there.  
19 My ground is flooding away, washing away. Pretty  
20 soon I don't know. My fence I have around my  
21 house is going (indicating). I don't know how  
22 much longer it will be able to take this if it  
23 could talk. The mosquitoes. Where is all this  
24 talk? Crap. It's crap. You's do nothing.  
25 That's it.

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CHAIRMAN EWASUTYN: The lady here.

MS. WILSON: Thank you. I'm Deborah Wilson and I live right next to where the road is coming off Gardnertown Road. I have a couple comments. First I'd like -- you mentioned Pace land use planning and I was wondering -- I was actually going to recommend they be involved in this project. I know that they worked quite a bit hand in hand with Poughkeepsie and done some wonderful things there and in some other towns. I don't know how much they're involved but I would like to have that taken into consideration.

I have a couple other comments that are not questions, I'd just like to throw them out. One of them is regarding the water supply. When you did the Impact Statement and looked at the supply from Chadwick Lake, I wonder was that being viewed in terms of supplying all these other developments in the area? Are we looking at the total picture or are we just looking at Chadwick Lake supplying this one neighborhood? Are our wells, personal wells being taken into consideration when you look at the supply and the whole hydrological cycle?

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I'm wondering if construction oversight could be considered when we actually go into construction. I have audited environmental health and safety on construction projects and I have found them to be very inadequate, not because people are callous, it's just because it happens to go along that way sometimes. So I'd like to see that monitored.

I'd like to see a better fauna study because there's a lot that I know of in this area, in my area, just my little piece, that was not mentioned.

Let's see. Just in terms of the sustainability of our area, I would like to see some attention paid to the carbon footprint of this. We're taking down a lot of trees which would be an offset. Are we going to have offsets to removing some of our carbon emissions that we're producing here?

And lastly in terms of the future of this project, we're entering into a time -- we're booming here but the rest of the country isn't doing so good as far as home sales go. What if this falls flat? What are we going to do? I

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2 think that should be -- the economics of it  
3 should be paid attention to.

4 I hope you'll take my comments under  
5 consideration.

6 CHAIRMAN EWASUTYN: Thank you. The  
7 gentleman here.

8 MS. LEVINSTEIN: My name is Sheila  
9 Levinstein. I want to show you on the map if you  
10 don't mind. My house borders the Driscoll's  
11 house. I'm right here.

12 I was told that the road, the  
13 sixty-foot wide road that's going to be put in  
14 there is going to be three feet off my property  
15 line. I was just wondering if that was legal. I  
16 don't know if this is the right place to ask that  
17 question.

18 CHAIRMAN EWASUTYN: It is the right  
19 place.

20 Is it going to be three feet off her  
21 property line?

22 MR. WINGLOVITZ: The right-of-way will  
23 be three feet from the property line. The  
24 physical road is centered in the fifty-foot  
25 right-of-way. So the road is in the center of

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that. That will be fifteen feet to the edge of the curb to the property line, roughly.

MS. LEVINSTEIN: Fifteen feet from the edge of the road to my property line?

MR. WINGLOVITZ: To the property line. Correct. The Town has asked for a stonewall to be put along that property between --

MS. LEVINSTEIN: Between my property and his property or my property and that line?

MR. WINGLOVITZ: Between your property and the road property. The road is on its own property.

MS. LEVINSTEIN: Okay. Thank you.

CHAIRMAN EWASUTYN: As far as does that comply with zoning? Ed, does that comply with zoning?

MR. GARLING: She said three feet from her house to the property line?

MS. LEVINSTEIN: No, sir. Someone from the board of education had these plans to tell the board of education how many kids are going, and they mentioned -- when they looked at the plans they told me that they're building three feet from my property line. I didn't know if

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that was legal. I don't know.

MR. GARLING: Well, I'm assuming your property line --

MS. LEVINSTEIN: My property line is Mr. Driscoll's --

MR. GARLING: -- is going to be a street right-of-way line then. From your property line to the curb will be fifteen feet as Mr. Winglovitz said. From your property line to your house, I don't know how far that is.

MS. LEVINSTEIN: Very close.

CHAIRMAN EWASUTYN: Mike, did you want to respond to that?

MR. DONNELLY: If I could. Most people don't realize that what the municipality controls by way of its roadway system is in most cases much larger than the paved roadway that you see. So where your property line is and where the municipality's right-of-way begins is often a location that's quite some distance away from the pavement. So I would think that the right-of-way line is going to be not exactly three feet away, exactly coterminous with your property line. they are going to meet at the same place and your

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2 property line and the road bed line will be the  
3 same. I think what you're hearing is within the  
4 part that will become the roadway there will be a  
5 stonewall quite some distance before the pavement  
6 begins. Typically a roadway meets the adjoining  
7 property line.  
8 MS. LEVINSTEIN: I was wondering if my  
9 house is going to be worth more or worth nothing  
10 at this point because of the road. You got -- I  
11 don't know how many cars are going to be coming  
12 out on 300 passing my house. Okay. Thank you  
13 very much.  
14 MR. GARLING: To answer the specific  
15 question about zoning, right now the single-  
16 family home requires a thirty-foot side yard and  
17 right now you have about three feet.  
18 MR. HINES: Five feet.  
19 MR. GARLING: Five feet.  
20 MS. LEVINSTEIN: My house is very close  
21 to the property line. It's very old and --  
22 MR. GARLING: Once this subdivision  
23 goes in, that part of that lot will be a front  
24 yard which will require fifty feet. Since you're  
25 not developing or doing anything with your

DRISCOLL SUBDIVISION

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2 property you wouldn't be required to get a  
3 variance. So your lot doesn't have adequate yard  
4 area now, it won't have adequate yard area in the  
5 future. That doesn't mean you are any more  
6 nonconforming than you are today.  
7 CHAIRMAN EWASUTYN: Karen.  
8 MS. ARENT: To help mitigate some of  
9 the effects of the road the developer has  
10 proposed a stonewall along your property line.  
11 The Town didn't want to have the stonewall in  
12 their right-of-way so the developer has made a  
13 three-foot extension of the property for the  
14 conservation lands where they're going to build  
15 the stonewall that will be three feet high. This  
16 is to help buffer the effects of the road from  
17 your property.  
18 MS. LEVINSTEIN: Thank you very much.  
19 CHAIRMAN EWASUTYN: Sir.  
20 MR. WINCHELL: Is there going to be a  
21 specific format to address -- I'm not sure if  
22 anybody else has this issue. We are definitely  
23 going to have a property line issue. I'm sorry.  
24 Dave Winchell from 506 Circle Lane.  
25 It appears we're the only ones that's



DRISCOLL SUBDIVISION

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going to have a property line issue here. Is there going to be a proper format to address that?

MR. DONNELLY: What's the nature of the issue?

MR. WINCHELL: About twenty-five feet of my backyard, the proposed fence.

MR. DONNELLY: You contend that land that this developer is representing as owned by it is in fact owned by you?

MR. WINCHELL: Yes.

MR. DONNELLY: We will double check the survey but we're not going to be the arbiter of that type of dispute. If there's a certified survey that shows ownership by this developer, the Board will rely upon it and that is a private issue for you to resolve.

MR. WINCHELL: So there's --

MR. DONNELLY: We will double check it. If you can tell us where your property is located we will make sure that survey reading is correct in that area.

MR. WINCHELL: It's the only one that encroaches.

DRISCOLL SUBDIVISION

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MR. HINES: Was it formerly Sterker?

MR. WINCHELL: Stercan.

Issue number two, and this is a simple one, the foot path at the end of Circle Lane into the development, what's the purpose for that?

CHAIRMAN EWASUTYN: Ross, do you want to address that?

MR. WINGLOVITZ: At the end of Circle Lane originally early we talked about having a through access. Everybody thought that was a pretty bad area because we would have vehicles cutting through back and forth between the two projects. What we have proposed is there is an existing double row of stonewall that's about fifteen feet apart. We're going to preserve that stonewall and have a foot path in between so there can be pedestrian access between the projects, between the two properties. If there's kids here that want to play with these kids and vice versa, they can go between the foot path. If joggers from here want to come down, use the sidewalks, they can do that. There's paths throughout the project. The idea is to promote pedestrian traffic between the two and not have

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1 98

2 vehicle traffic between the two.

3 MR. WINCHELL: That's drastically going  
4 to change the character of our property. The  
5 reason we bought our property at the end of the  
6 cul-de-sac was for privacy. We might as well  
7 live in downtown Newburgh.

8 CHAIRMAN EWASUTYN: Is there anyone  
9 here this evening that hasn't had an opportunity  
10 to raise their comments? The gentleman in the  
11 back.

12 MR. WEYER: Ed Weyer, 502 Third Street.  
13 You're putting a hundred and five houses in.  
14 You're going to put a sewer plant in to hold all  
15 these houses?

16 CHAIRMAN EWASUTYN: Ross, do you want  
17 to address that?

18 MR. WINGLOVITZ: The Town of Newburgh  
19 currently has an agreement with the City of  
20 Newburgh.

21 MR. WEYER: They're overflowing right  
22 now.

23 MR. WINGLOVITZ: That was just  
24 renegotiated and there's a whole new agreement.  
25 There's an expansion to the City plant that was

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proposed as part of that new agreement. The plan is being -- actually was upgraded I believe just recently, within the last couple years.

MR. WEYER: I have a drain storm next to my property. They won't even clean it unless they get a hepatitis shot to go in there because the raw sewage goes through there. What's going to happen there?

UNIDENTIFIED SPEAKER: That goes back up from my basement.

MR. WEYER: They won't even suck it out because of the raw sewage.

CHAIRMAN EWASUTYN: You're talking about the Town?

MR. WEYER: The Town.

CHAIRMAN EWASUTYN: There's several comments that were raised this evening that are really comments that would be better addressed to the Town Board. The Planning Board has no authority --

MR. WEYER: So that pond is going to be more or less our leach field there.

CHAIRMAN EWASUTYN: That pond is going to be studied further based upon the comments

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that were received tonight.

MR. WEYER: Thanks.

UNIDENTIFIED SPEAKER: You can't really separate the sewage. You can't just say that's the Town Board but we're the Planning Board and put this in and forget about the sewage. That's not right.

CHAIRMAN EWASUTYN: We'll take your comments and we'll make them part of the F.E.I.S.

Is there anyone here this evening who hasn't spoken?

MS. WISEMAN: I have spoken but I would like to speak to Mr. Browne. I don't know exactly who you are up there but I read your comment in The Mid-Hudson Times and I would love to quote you --

MR. BROWNE: You're not going to quote me because I haven't wrote anything to anybody ever.

MS. WISEMAN: Well, it's Ann Moser. She said that you said developers don't care. Once they get their stamp of approval they don't care unless they're policed and policed and policed. I have it in the newspaper.

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MR. BROWNE: I've learned not to trust newspapers years ago. They mislead and misrepresent so much.

MS. WISEMAN: This is the Town's newspaper. The Town doesn't recognize The Times Herald Record either? Who do they trust? That's a good thing to know.

CHAIRMAN EWASUTYN: At this point I'm taking last comments for the evening. Mr. Fisch.

MR. FISCH: Yes. I just wanted to bring up the fact that the engineer says that all groundwater that's coming out of the Kroll development is going to go ahead and continue to go down into their development. What's going to happen to his homes once that groundwater goes into their yards?

CHAIRMAN EWASUTYN: I don't know if I think I heard him the same way you did. I think he discussed the northern part of the property.

Ross, one more time, the drainage that the Town asked you to work with.

MR. WINGLOVITZ: There's an easement here. When they asked us to provide an easement to the Town for the existing drainage, that comes

DRISCOLL SUBDIVISION

1 102  
2 off the Kroll development and I guess ponds at  
3 the rear. That's going to be provided for to  
4 allow it to go through the properties and  
5 discharge eventually to the stream.  
6 MR. FISCH: That's correct. When you  
7 went over towards the pond a little more and you  
8 were talking about my yard --  
9 MR. WINGLOVITZ: All these properties  
10 will flow onto our property primarily.  
11 MR. FISCH: You're going to flood those  
12 homes.  
13 MR. WINGLOVITZ: There's provisions --  
14 (Inaudible discussion.)  
15 CHAIRMAN EWASUTYN: It's getting late  
16 in the evening and I want everyone to just  
17 maintain a sense of order.  
18 MR. WINGLOVITZ: There's a level of  
19 design that goes into making sure these houses  
20 are drained so they're not going to be stuck on  
21 the land. They're going to have proper drains  
22 installed, drainage behind the houses to take the  
23 water away from the houses. That's part of the  
24 current design standards.  
25 UNIDENTIFIED SPEAKER: Everything we

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don't have they're going to have, folks. So sell and get the hell out.

UNIDENTIFIED SPEAKER: I'm here to testify for the \$14,000 worth of damage I had done to my home from the water coming out of the ground. The water is not going to flow east, it's going to flow right back into the Krolls and come up through my floor.

UNIDENTIFIED SPEAKER: They don't care.

CHAIRMAN EWASUTYN: Sandra Kissam, last comment for the evening. Sandra.

MS. KISSAM: I just want to say that, and this has been studied by other organizations, traffic cannot be controlled. What can be controlled is land use. So if you want to control traffic you have to control land use. The only way to control the amount of traffic that's generated by this proposed development is to drastically reduce the number of residences that are put on that parcel and throughout the Town. Anything which is built is going to add to the traffic stream. The traffic stream is going to continue. You can widen roads. When you widen roads you'll take away open land from



DRISCOLL SUBDIVISION

1 104  
2 people's homes, from their businesses or  
3 whatever. You are essentially only building a  
4 bigger conduit. The bottom line is that all of  
5 this traffic plus the truck traffic around the  
6 airport is going to continue to make our air  
7 quality worse, and our air quality right now does  
8 not conform to the ozone levels of the Federal  
9 standard. We are non-attainment for ozone. We  
10 have more and more ozone alert days in the  
11 summer. You can see it on mountains, it's  
12 cooking over our heads and all of this is going  
13 to be a stew. The young lady over there who  
14 spoke about the carbon, again the Planning Board  
15 doesn't think more than past this project or any  
16 other project. You're not thinking about  
17 cleaning up our community and making it a good  
18 place to live in after you've gone to your  
19 retirement homes.

20 CHAIRMAN EWASUTYN: Thank you. Final  
21 comments from anyone in the audience?

22 (No response.)

23 CHAIRMAN EWASUTYN: At this point I'll  
24 turn to our consultants for their final comments.  
25 Pat Hines.

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MR. HINES: As I stated earlier, we're going to continue to review the various engineering components of the project. I've taken notes tonight. We've heard you. Drainage is an issue, the septics are an issue. We will address the sewer issue with the Town Board, possibly extending the sewer lines so appropriate further connections can be made in the future. I've made a list of all the comments that were made tonight. We have them on -- the Stenographer has them.

I purposely didn't deliver my comments tonight. We usually have the comments on D.E.I.S.s available for the public hearing. I found it more helpful to listen to the public first and then I can furnish our comments back to the developer such that they can address them in the F.E.I.S.

So I've heard you, I've taken notes and I will include many of the comments that pertain to the engineering issues into my comments that they have to address.

CHAIRMAN EWASUTYN: Ed Garling, Planning Consultant.

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MR. GARLING: I'd like to second Pat Hines' comments. The public hearings are very important to the Planning Board and to the consultants to understand what's really happening up there. Very often when a project comes before the Board, even though the applicant may do his best to try to resolve problems, they don't always understand everything that's going on in the area, particularly the surrounding areas. We know some of the history of the projects around the area.

I would also add that if you've got a sewer problem, those of you who are here that have those problems should go collectively to the Town Board because they are the ones that can help solve your problems along with yourselves.

We will take comments, we have been taking notes, and we will make sure that those issues are attempted to be addressed.

There were also some comments made relative to economic situations and other concerns. We will be addressing those in our comments back to the Board and to the applicant.

CHAIRMAN EWASUTYN: Thank you.

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Karen Arent, Landscape Architect.

MS. ARENT: My role in the project is to make sure there's as many -- as much existing vegetation as possible saved, that the developers do what they can to save the vegetation as well as other aspects of the project to help mitigate the visual impacts. They are also required to plant a certain number of trees for the roads to help alleviate some of the trees that are being cut down. They have proposed to use species that are indigenous to the site, so we'll be bringing back some of the species that are lost due to development.

Another thing I reviewed in the D.E.I.S. is soil cover. How much soil cover is going to be put back on top of the cuts that they are making to make sure things will grow once they put the soil back.

That's just some of the aspects that are reviewed. If the project is passed I also make sure that the tree protection fencing is put up around all the trees they're proposing to save because a lot of times if we don't put up the tree protection fencing the trees get cut down.

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The Town has hired me to make sure that the tree protection fencing is up before they start construction.

So we're trying to save as many of the trees as we can and as much of the existing environment while also allowing the developers an equal right to build.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant.

MR. WERSTED: We'll take the comments received tonight and also the additional comments that come in in terms of a written form, they'll be submitted to the Board and the Board will distribute those comments to the individual consultants. We'll take those comments, we'll take the traffic impact study and review it relative to the number of cars it's generating, the access points out to 300 and Gardnertown Road, the sight distances and the intersections that are affected in this area and provide the comments -- provide technical review comments to the Board. We'll distribute them to the applicant for revisions and consideration in the F.E.I.S.

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CHAIRMAN EWASUTYN: Cliff Browne, would you care to report to the public the certified mailings?

MR. BROWNE: Yes. Thank you. There were a hundred and nine notices sent out, eighty-eight returned, nineteen not returned and two undelivered.

CHAIRMAN EWASUTYN: Thank you. Final comments from Board Members. Cliff Browne?

MR. BROWNE: Most of the issues that I heard this evening are issues that need to go to the Town Board, not the Planning Board. The Planning Board, our function in life is to make sure that the code that the Town Board passes is in fact followed. That's what we do. Most of your concerns were focused around issues that the Town Board has to address, has to make modifications to, has to plan for. A lot of what was talked about was addressed in the master plan. The master plan study took I think what, four or five years to complete. A lot of those issues that were raised tonight were part of the master plan, long-term planning, long-term

DRISCOLL SUBDIVISION

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2 issues. Our function is not to address those  
3 long-term issues. Our function is to in fact  
4 enforce the code that's in place. That's what  
5 we're here to do, that's what we're here to  
6 consider. The issues that were raised that  
7 address code issues we look at and we look very  
8 closely at. That's what our function is.

9         A lot of the things that were brought  
10 up are things also that will require additional  
11 studies. As Pat mentioned, a lot of those things  
12 are already noted and they'll be done. So a lot  
13 of the things that again have been addressed are  
14 things that we as a Board are not allowed to  
15 address. We are not allowed to make decisions on  
16 our own. We just can't do it. It's not legally  
17 allowed. So if you are really concerned, you hit  
18 the Town Board meetings and address your concerns  
19 with the Town Board. That's what they're there  
20 for.

21         CHAIRMAN EWASUTYN: Ken Mennerich?

22         MR. MENNERICH: Several comments I  
23 heard relative to the fact that if the applicant  
24 gets this approval they go ahead and build  
25 whatever they want and there's in effect no

DRISCOLL SUBDIVISION

1 111  
2 oversight on what they build. I think the public  
3 should be aware that there is oversight from our  
4 consultants on the drainage and the landscaping.  
5 The developers pay an inspection fee such that we  
6 can have Town consultants going and providing  
7 oversight on these projects as they're being  
8 built.  
9 CHAIRMAN EWASUTYN: Ed O'Donnell?  
10 MR. O'DONNELL: There's not too much  
11 more to say that hasn't already been said. One  
12 thing I really think is important, I know if I  
13 lived in Kroll Acres I wouldn't wait for this  
14 meeting to hear my --  
15 UNIDENTIFIED SPEAKER: We've been  
16 saying something.  
17 MR. O'DONNELL: Just take it easy.  
18 It's my turn. I listened to you, you listen to  
19 me or you can leave. If I lived in Kroll Acres I  
20 wouldn't wait for this meeting. I'd go to the  
21 Town Board meeting every time they had one. How  
22 can you people tolerate it? I mean lousy water  
23 pressure, septic problems, drainage problems. I  
24 don't understand. Why aren't you there? I have  
25 never read a letter in the paper from any of you



DRISCOLL SUBDIVISION

1 112  
2 about your problems. Do something about it. You  
3 can't do it here. We can't fix it. Go to the  
4 guys that can fix it. That's all I can tell you.  
5 CHAIRMAN EWASUTYN: Joe Profaci?  
6 MR. PROFACI: Again like Ed said, I  
7 have nothing further. I agree completely with  
8 what Ed said and I don't have any other comment  
9 for tonight.  
10 CHAIRMAN EWASUTYN: Mike Donnelly?  
11 MR. DONNELLY: John, if you are to  
12 close the hearing tonight, ten days would expire  
13 on Sunday, June 17th. I would recommend that you  
14 announce that the public comment period would  
15 remain open until Monday, January 18th.  
16 UNIDENTIFIED SPEAKER: June.  
17 MS. KISSAM: I would like to  
18 respectfully request this public meeting be held  
19 open in view of the fact that so many people who  
20 live in the nearby areas did not get any  
21 notification. I know that you believe that you  
22 have contacted the people who you were legally  
23 required to contact, but the impacts of this  
24 development will spread much further than those  
25 confining areas that you are suggesting. This

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1 113  
2 project is extremely important and very  
3 extensive. I would like to suggest that you hold  
4 this public hearing open and have another session  
5 in the near future, probably at your next  
6 Planning Board meeting.  
7 CHAIRMAN EWASUTYN: Sandra, I think the  
8 Planning Board, as I said early on, made a very  
9 fair attempt as far as having a collaborative  
10 meeting in early January to bring the public in.  
11 The public was invited to the scoping session.  
12 At this point I'm going to move for a  
13 motion from the Board to close the public hearing  
14 and to have the written comment period last until  
15 the 18th of June at 4:30 in the evening.  
16 MR. MENNERICH: So moved.  
17 MR. O'DONNELL: Second.  
18 CHAIRMAN EWASUTYN: I have a motion by  
19 Ken Mennerich. I have a second by Ed O'Donnell.  
20 Any discussion of the motion?  
21 (No verbal response.)  
22 CHAIRMAN EWASUTYN: I'll move for a  
23 roll call vote starting with Cliff Browne.  
24 MR. BROWNE: Aye.  
25 MR. MENNERICH: Aye.

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2 MR. O'DONNELL: Aye.  
3 MR. PROFACI: Aye.  
4 CHAIRMAN EWASUTYN: Myself yes. So  
5 carried.  
6 I'll move for a motion that we recess  
7 for ten minutes and give Michelle a chance to get  
8 caught up.  
9 MR. PROFACI: So moved.  
10 MR. O'DONNELL: Second.  
11 CHAIRMAN EWASUTYN: I have a motion by  
12 Joe Profaci. I have a second by Ed O'Donnell.  
13 I'll ask for a roll call vote starting with Cliff  
14 Browne.  
15 MR. BROWNE: Aye.  
16 MR. MENNERICH: Aye.  
17 MR. O'DONNELL: Aye.  
18 MR. PROFACI: Aye.  
19 CHAIRMAN EWASUTYN: Myself aye.  
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21 (Time noted: 9:08 p.m.)  
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CERTIFICATION

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

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DATED: June 27, 2007

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

----- X

In the Matter of

NEXTEL NY - 2207A MID-VALLEY MALL  
(2006-61)  
309 North Plank Road  
Section 75; Block 1; Lot 11  
B Zone

----- X

PUBLIC HEARING  
SPECIAL USE PERMIT - SITE PLAN

Date: June 7, 2007  
Time: 9:20 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: JOSEPH E. PROFACI  
DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
EDWIN GARLING  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: ANTHONY GIOFFRE

----- X

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

NEXTEL NY - 2207A MID-VALLEY MALL

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CHAIRMAN EWASUTYN: I'll move for a motion that we reconvene the Planning Board meeting of June 7th.

MR. PROFACI: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Ed O'Donnell. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

The next item of business this evening is Nextel New York. It's at 2007A Mid-valley Mall. It's a public hearing for a special use permit and site plan. It's located in a B Zone and it's being represented by Anthony Gioffre.

At this time I'll ask Mr. Mennerich to read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take

NEXTEL NY - 2207A MID-VALLEY MALL

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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 Nextel New York, 2207A Mid-Valley Mall for a site plan and special permit for the installation of cellular phone antennas on top of a water tower on the Mid-Valley Mall site on premises 309 North Plank Road water tank in the Town of Newburgh, designated on Town tax map as Section 75; Block 1; Lot 11, B Zone. Said hearing will be held on the 7th day of June 2007 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7:00 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Planning Board -- Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated May 21, 2007."

CHAIRMAN EWASUTYN: Thank you.  
Cliff, have you had a chance to  
review --

MR. BROWNE: I don't have any. We do

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have some. Okay.

CHAIRMAN EWASUTYN: Would you like to make your presentation.

MR. GIOFFRE: Thank you, Mr. Chairman, Members of the Board. For the record, my name is Tony Gioffre, I'm a member of the law firm Cuddy & Feder, 300 Westage Business Center in Fishkill, New York. I'm here on behalf of Nextel Telecommunications. I'm pleased to advise everybody this proposal has no impact on the nude bathing beach on Gargoyle Lane. My partner, Chris Fisher, has appeared in the past in my stead with regard to this application.

Nextel Telecommunications is a licensed provider of wireless communication services and we're proposing to provide additional coverage in the area around the Mid-Valley Mall which is an area that has a critical gap in service coverage for Nextel Telecommunications. More specifically, we're proposing to provide coverage along Route I-84, Route 9W and surrounding local roads in this area of the community.

In our materials we have included RF propagation data which demonstrates where the



1  
2 coverage is deficient and how this proposal will  
3 be providing service coverage to an area that is  
4 currently lacking that coverage.

5       There's an existing water tank which  
6 I'm sure you're all familiar with. It's an  
7 existing hundred and forty foot water tank.  
8 Nextel is proposing to place twelve panel  
9 antennas on the top of the water tank and locate  
10 its associated equipment cabinet, equipment  
11 shelter underneath the tank in the existing  
12 fenced compound. We're proposing to modify a  
13 portion of the fenced-in area. We submitted some  
14 lengthy materials which demonstrate the lack of  
15 visual impact with respect to the proposal.

16       As I've indicated, the service coverage  
17 needs for the proposal and also we've done an  
18 analysis with respect to the emission standards  
19 that are promulgated by the FCC. In fact, the  
20 emissions proposed by the facility on a  
21 worst-case scenario are less than 1 percent of  
22 the threshold promulgated by the FCC at  
23 0.0745 percent.

24       I know you have an independent  
25 consultant here, Mr. Musso, who has reviewed the

1  
2 application. We've had a chance to review his  
3 report. It's my understanding that the  
4 structural documentation that we did supply to  
5 him was also satisfactory.

6 Unless the Board has any questions, I  
7 will turn it over to you or any members of the  
8 public that would like to ask any questions.

9 CHAIRMAN EWASUTYN: Thank you, Mr.  
10 Gioffre.

11 At this point we'll open the meeting up  
12 to the public for their comments.

13 Sir, would you give your name and your  
14 address.

15 MR. BURGESS: My name is Shawn Burgess,  
16 I'm at 39 Commonwealth Avenue. I'm here on  
17 behalf of my eighty-eight year old grandmother.  
18 She lives on 9 Meadow Street right across the  
19 street from the Mid-Valley Mall where the  
20 proposed tower is going to be put in on top of  
21 the water tower.

22 I was wondering how safe these things  
23 actually are. I don't know. Like anybody else  
24 who would have something like this put in their  
25 immediate area, especially in their family's

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area, they do a little bit of research, find out how dangerous these things are, what other people's experiences have been with these items. What I found out was that there was also a proposed plan in Ossining High School to put one on top of their building, and they, like this Board, were obviously -- their school board was given the obvious this is A okay, we got the -- you know, they're giving us the data, everything is okay, the FAA says it's cool, but they were given insufficient data. What I found was there's thermal frequency as opposed to low-level frequency. The thermal data was fine but there was low-level data or low-level frequency that caused a lot of serious effects. What I had found here was that even outside of the country, from the World Health Organization they found pretty nasty things this did to people. I'm really nervous about having this next to my eighty-eight year old grandmother's house.

On behalf of most of the neighbors that weren't here for whatever reason, maybe they didn't think it was valid enough to come, or maybe they weren't told it was going to happen

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3 there, I'm worried about their health and I'm  
4 worried about my grandmother. I'm hoping that  
5 maybe somebody will check into this further to  
6 make sure this is a safe thing to do for the  
7 community where I live and my grandmother and my  
8 family.  
9 I would also hope that somebody would  
10 take into consideration that, you know, there's  
11 -- I don't know how big this thing is. Maybe you  
12 guys could give me an idea of what this would  
13 look like. I don't know if this thing is going  
14 to be an eyesore or is it going to be un-  
15 noticeable. I'm looking out for family and I  
16 wanted somebody to at least take my concerns into  
17 consideration, maybe help me out and do right by  
18 me and my family and my eighty-eight year old  
19 grandmother. Thank you, ladies and gentlemen.  
20 CHAIRMAN EWASUTYN: Are you familiar  
21 with the water tower?  
22 MR. BURGESS: Yes, I am sir.  
23 CHAIRMAN EWASUTYN: So visually you  
24 know what it looks like?  
25 MR. BURGESS: I know what the water  
tower looks like but I'd like to know what the

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structure looks like. I have no clue if it's small little dishes, if it's a big tower. If you could help me out with that I would greatly appreciate it, sir.

MR. GIOFFRE: This is a picture of the existing water tank on the tower. What we're proposing is just to put twelve panel antennas on the top. We have a visual. Mr. Chairman, if I can open up the visuals in the packet to show this gentleman. This is a picture of the existing water tank and the top twelve panel antennas. They're going to be painted to match the tank. In order to mitigate the impacts, to the extent there are any, of the panel antennas, they're going to be painted to match the water tank ,so they'll blend in with the water tank. We were able to find an existing tall structure to provide our service coverage as opposed to building a new tower, and we believe that this is within the spirit and intent of the code with respect to the preferences for a location of a wireless telecommunication facility. Any time we can find a structure and put something as minimally obtrusive as antennas on an existing

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water tank, we certainly try to avail ourselves of that. That's something the code encourages as well.

With regard to the emissions that you did raise, I'm not familiar with the specifics of the Ossining proposal but I would like to say that unfortunately this Board's hands are tied with respect to an application as it relates to emissions. Once an applicant demonstrates compliance with the thresholds promulgated by the FCC that board cannot deny an application based upon the standards. We've done that analysis and that analysis was confirmed by the Town's independent consultant who is here this evening. In fact, the standards of what we're proposing, as I mentioned earlier that figure I gave you is the worst-case scenario, is going to be less than 1 percent of what those Federal thresholds are. In fact, it's 0.07 percent of those Federal thresholds.

CHAIRMAN EWASUTYN: Mike Musso represents and does the review for the Planning Board. He's our telecommunications expert. I'll have Mike speak on behalf of the Planning Board.

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Mike.

MR. MUSSO: Mr. Chairman, Members of the Board and members of the public, thanks for having me here tonight. I'm Mike Musso from HDR LMS. We work on behalf of municipal clients, not the wireless industry, to review cell towers and proposed wireless facilities.

Just to go over real quick, this is a scale drawing of the water tank. A hundred and forty foot is what exists out there now. This would raise this approximately eight feet. It's 120th of the size of the water tank that's out there now. The antennas are about twelve inches in diameter. With the photo simulations that were provided it's our opinion this is a very good candidate site for a number of reasons. One is that technically it could work very well, give Nextel the coverage that they need and that they are obligated to serve their clients on, their customers on. Number two, as the applicant eluded to, which is absolutely correct, using the existing structures is something that's preferred by the Town code as it is in most communities as well. This would potentially alleviate or will

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alleviate the need for a new tower in somebody's yard or in closer proximity.

We did look at the plan of the entire Mid-Valley Mall including locations of the nearest residences. I'm not sure exactly where that was but we did do a radius view with the application materials that were provided, and indeed a worst case maximum permissible exposure level to anyone on the ground level, be it at the base of the tower or outwards several hundred feet, are going to be about thirteen times below a twenty-four-hour, seven-day-a-week, seventy-year exposure which is what would be allowed. In fact, the applicant again eludes to structures of this height with antennas proposed that far above ground surface, they're known as categorically excluded sites and municipalities do not have the right to challenge them based on RF emissions. However, as standard practice we always like to answer the question because they're great questions and we do get those questions. I hope that answers part of your concern with that.

It's not thermal radiation either.



NEXTEL NY - 2207A MID-VALLEY MALL

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It's non-ionized radiation. I know in some of the World Health Organization studies it's sometimes confused with power lines. This is a different technology than that. The bottom line is this is 1,300 times below the number that's endorsed by the US EPA and also the New York State Health Department as well. For a number of reasons I feel it's a very good candidate site.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No verbal response.)

CHAIRMAN EWASUTYN: Cliff Browne, are you complete with --

MR. BROWNE: I'm trying to verify some numbers.

CHAIRMAN EWASUTYN: Take your time. Would you like to summarize the action before us this evening?

MR. MUSSO: Sure. Twelve panel antennas each about six feet tall by twelve inches wide located at the top of a hundred and forty foot existing structure. We reviewed the coverage maps, meaning where there are existing Nextel sites. There are several in the area and

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2 indeed this site is required. It fills in a gap  
3 of their service. The proposed location will  
4 indeed fill in and remedy that gap in service,  
5 therefore we do feel that there is a need for a  
6 site in the area. Again, for reasons I just  
7 mentioned I think the proposed installation is a  
8 very good candidate.

9         The applicant also did look at  
10 alternate sites within the area rather than using  
11 this. I think there was something like twelve  
12 sites, many were at much lower elevations or  
13 really smack in the middle of residential  
14 neighborhoods. They were dismissed. There were  
15 a couple sites that were a little better  
16 candidates, one on an existing tower and one on  
17 another water tank, however this really presents  
18 the best technological option, and I think for a  
19 lot of reasons the best site logistic option  
20 that's out there.

21         The radiofrequency I think I discussed  
22 is significantly below what's allowed for the  
23 general public from all points on the ground  
24 surface.

25         We did look at detail of the structural

1  
2 safety. This water tank has been out of  
3 commission for awhile. We want to make sure even  
4 with a full tank that the existing structure  
5 could maintain the weight. Indeed it's a fairly  
6 small facility that's being proposed so there's  
7 plenty of structural capacity to maintain what's  
8 being proposed out there. I think that kind of  
9 sums up the issues of the site.

10 CHAIRMAN EWASUTYN: Mike Donnelly,  
11 Planning Board Attorney.

12 MR. DONNELLY: I just wanted to echo  
13 what you heard earlier so you understand.  
14 There's a Federal law, the Telecommunications Act  
15 of 1996, which says that provided that a cell  
16 tower operator, in its proposal, falls under a  
17 certain maximum threshold of emissions, that a  
18 planning board may not deny the cell tower  
19 operator's application for a facility for health-  
20 related reasons. Our Telecommunications  
21 Consultant, Mr. Musso, told us that this falls  
22 under those so that whether there are or are not  
23 health-related concerns, they're not fair game  
24 for the Planning Board. The rationale behind the  
25 Federal law is that if the emissions come in

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under those thresholds there are no health effects that would result.

MR. BURGESS: Just to ask a question. As long as it doesn't go over that or under the maximum effect. So there's no medium, there's no different levels, just as long --

MR. DONNELLY: As long as it's under the maximum a board may not disapprove on the grounds of health impacts. This Board, when it has approved these, requires certain testing and certifications both after the tower is up and a certification on an annual basis to ensure that those limits are not being exceeded.

MR. BURGESS: So the FCC guarantees -- this is what I'm nervous about, guys. I'm not trying to pick a fight with you. These are pretty nasty things that I see here and this is just from low-level emissions. I'm not a technical guy, I couldn't tell you what level can do what to somebody. I mean what I've heard here, and these are just a couple of the things, with all due respect to you guys --

MR. DONNELLY: The Board isn't allowed to consider them if they come in under the

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thresholds, and this does.

MR. HINES: There are orders of magnitude below any numbers of threshold.

MR. MUSSO: The limit that's used, the NPE limit, has been through a lot of research and a lot of review. It's done through epidemiological studies of human health, in some respects animal and cell cultures. This is a number that has, like any risk number, such as what's the safe concentration in the water you drink, this is based on lifetime exposures, continuous exposure. There's orders of magnitude. Still, with that number known as the NPE, that's sort of the gold bar the attorney just eluded to, we're about 1,300 times below that. Are there instances somewhere out there, rooftop installations, somewhere that have people passing in and out of what's called a near field area, quite frequently there probably are and they should be regulated or managed appropriately if they're not. Again, this site here, you're talking a hundred and forty feet above the ground. Once you're about a meter or two away you're in what's known as in the far field. You

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get dissipation with distance from the site.

Again, there's several sites that are operating, not just by Nextel but by the other providers within the Orange County and within the Town also. There is an annual recertification that has to be done, and at times I've reviewed those on behalf of the Town also.

So again, just looking at the health standards I hope that would give you some level of comfort knowing how far below we are above that safe number.

MR. BURGESS: Okay. So it's at a lateral level? Once it's up there it doesn't --

MR. GIOFFRE: These are focused to go out toward the horizon. They are covering roadways. That's one of the main objectives here. What I'm saying is the amount of power that's let out, the RF signal and those emission readings, they would decrease with distance from the tower.

MR. BURGESS: Okay. All right. I trust you.

MR. MUSSO: It's a great question. I could get you some other sources that are very

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specific to wireless facilities.

MR. BURGESS: Thank you so much. Yes, I appreciate that.

MR. MUSSO: Any time.

CHAIRMAN EWASUTYN: Cliff Browne.

MR. BROWNE: Yes. Fifty-seven notices were sent, fifty-one receipts were returned and one was returned undeliverable.

CHAIRMAN EWASUTYN: Thank you. Final comments from Planning Board Members. Cliff Browne?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: Who owns the tower?

MR. GIOFFRE: We've submitted in the application materials Mid-Valley Mall and we've --

MR. O'DONNELL: Who is responsible for the maintenance of the tower?

MR. GIOFFRE: I'm sorry?

MR. O'DONNELL: Who is responsible for maintenance?

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MR. GIOFFRE: Of the actual water tank?

MR. O'DONNELL: Yeah.

MR. GIOFFRE: That would be the owner of the premises.

MR. O'DONNELL: So you have no responsibility other than for the panels that you install?

MR. GIOFFRE: I'm not privy to the terms of the actual lease agreement. I'm just a regulatory attorney, I'm not privy to how that works.

MR. O'DONNELL: You're the first attorney I've ever met that doesn't know everything.

MR. GIOFFRE: I know my limitations. We're a tenant. Like a tenant in a strip mall where we have responsibilities that relate to certain portions --

MR. O'DONNELL: There's also restricted access to this tower; right?

MR. GIOFFRE: There's an existing fence compound at the base.

MR. O'DONNELL: I can conclude that that's the mall's responsibility to do that?



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MR. GIOFFRE: To maintain the fence?

MR. O'DONNELL: Right.

MR. GIOFFRE: Right.

MR. MUSSO: There's also an access point on the ladder for the tower. There's a shield that I know is under lock and key. I would assume that's also the owner/operator's responsibility. What Nextel would be responsible for is their expanded fencing around the ground-based equipment that's being proposed, the antennas and cables and any ancillary equipment that they have on the ground. It's a good question. I'm assuming this fencing that's -- obviously maintaining that lock on the ladder should probably be continued to be maintained by the owner of the tower. I haven't reviewed the lease agreement either I have to admit.

MR. O'DONNELL: I think you better. I think you ought to take a look at that.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you.

CHAIRMAN EWASUTYN: We realized in reviewing the project that you are within five hundred feet of 84 and we will have to refer this

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to the Orange County Planning Department for their review.

What the Board would like to act on tonight is closing the public hearing with the understanding that you'll waive the sixty-two day time period. We'll circulate this to the Orange County Planning Department and we'll allow for that thirty-day response time and then the Board will take final action as an agenda item at our meeting of the 19th of July.

MR. GIOFFRE: We'll happily grant an extension to the Board until July 19th.

CHAIRMAN EWASUTYN: Okay. Actually you'll waive the sixty-two day time period. Okay.

I'm going to move for a motion to first close the public hearing on the Nextel Mid-Valley Mall special use permit and site plan with the understanding that the applicant will be waiving the sixty-two day time period and that the Board would make the final determination on this action at our meeting of July 19th.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

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CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. Any discussion of the motion?

MR. O'DONNELL: Just a quick comment. When we meet on the 19th who's going to tell me who owns it and who is responsible for the maintenance and security?

MR. GIOFFRE: I'm confident that a lot of the information that's contained in the lease is proprietary information.

MR. O'DONNELL: I don't want to see the lease. I just want to know who owns it, who maintains it and --

MR. GIOFFRE: I'll be able to get you that information.

MR. O'DONNELL: That's fine. That would be good. Thank you.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. Any further Board discussion?

(No verbal response.)

CHAIRMAN EWASUTYN: At this time I'll move for a roll call vote starting with Cliff Browne.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

I'll turn at this time to the Planning Board Attorney, Mike Donnelly, to discuss the conditions in the resolution for final approval for this special use permit and site plan.

MR. DONNELLY: Yes. While you won't vote on it until after the County Planning Board has reported, in outline we would include the results of the County referral, which I assume will either be substantive or local only. We'll impose a requirement that the security fencing around the ground-based equipment contain warning signage and be routinely inspected. Ed, to your issue, whatever may be the obligations as between the landlord and tenant here, there will be conditions requiring the applicant to maintain these areas and equipment. If it's the landlord under their agreement who has to carry that out, so be it. This applicant needs to be responsive

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2 to the requirements of the Town. There is an ARB  
3 component to the review based upon the visuals  
4 you've seen. No structures can be built that are  
5 at odds with what is before the Board as part of  
6 those renderings. There's a requirement under the  
7 code that a \$75,000 performance security removal  
8 bond be posted prior to issuance of the building  
9 permit. There's a requirement of an annual  
10 certification letter under Section 168-23 of the  
11 Code. A requirement will be imposed that any  
12 increase in Nextel's transmission power, antenna  
13 size or number or size of ground-based equipment  
14 cabinets shall be approved by the Town prior to  
15 implementation of such changes. No additional  
16 accessory structures or outdoor fixtures may be  
17 erected on the property that are not shown on the  
18 site plan. There are several conditions per Mike  
19 Musso's memo that I'll ask him to refer to that  
20 we'll also incorporate into the resolution, and  
21 I'll get those from him tomorrow.

22 MR. MUSSO: The ones you haven't  
23 mentioned already are the proposed antennas,  
24 mounting structure and coaxial cables shall be  
25 color matched to the existing water tower colors

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2 and a matted finish is recommended. I think you  
3 mentioned maintenance and upkeep of those. That  
4 will be in there also. If the water tower is to  
5 be put back in service for water storage in the  
6 future, a condition to survey the tower and  
7 supports is recommended to determine that there  
8 has been no deterioration of the structural  
9 capacity. Any planned water tower maintenance or  
10 inspection activities by persons not trained in  
11 RF exposure should be coordinated appropriately  
12 between the owner/operator of the water tank and  
13 applicant to eliminate the potential for RF  
14 exposure at levels above the general public NPE.  
15 That of course would be if somebody is painting  
16 or sealing coating, if they are going to get in  
17 close proximity to those antennas. I think that  
18 should cover it between what Mike Donnelly just  
19 went through.

20 CHAIRMAN EWASUTYN: So we have an  
21 understanding of the final resolution that we'll  
22 act on at the meeting of the 19th of July.

23 At this point I'll move for a motion to  
24 refer this Nextel New York Mid-Valley Mall  
25 application to the Orange County Planning

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Department.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Joe Profaci. I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Mr. Gioffre, if you'd be so kind to get plans to Bryant Cocks, Garling Associates, and he'll make the circulation to the Planning Department.

MR. GIOFFRE: We will do so.

Mr. Chairman, may I ask a question with respect to the ARB component? Can this matter be referred to the ARB in the interim?

MR. DONNELLY: This is the ARB.

CHAIRMAN EWASUTYN: Karen, do you want to discuss the ARB?

MS. ARENT: I think they're doing the best they can and it looks visually unobtrusive.

NEXTEL NY - 2207A MID-VALLEY MALL

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CHAIRMAN EWASUTYN: Okay. Would the Board like to act and approve the ARB for the Nextel Mid-Valley Mall?

Do I have a motion to approve?

MR. PROFACI: So moved.

MR. O'DONNELL: Second.

MR. DONNELLY: Why don't you wait until you get the County Planning letter back and we'll include it in the same resolution.

CHAIRMAN EWASUTYN: Thanks.

MR. PROFACI: I'll withdraw it.

CHAIRMAN EWASUTYN: Motion withdrawn.

MR. GIOFFRE: Thank you very much.

(Time noted: 9:50 p.m.)



CERTIFICATION

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

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DATED: June 27, 2007

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

----- X

In the Matter of

SPRINT/NEXTEL IV NY - 0423  
(2007-7)  
Newburgh Mall Access Drive  
Section 60; Block 3; Lot 35.1  
IB Zone

----- X

PUBLIC HEARING  
SPECIAL USE PERMIT - AMENDED SITE PLAN

Date: June 7, 2007  
Time: 9:50 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
EDWIN GARLING  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: ANTHONY GIOFFRE

----- X

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

SPRINT/NEXTEL IV NY - 0423

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CHAIRMAN EWASUTYN: The next item we have this evening is Sprint/Nextel IV New York. It's a public hearing for a special use permit and a site plan. It's located at the Newburgh Mall access drive, it's in an IB Zone and it's being represented by Anthony Gioffre again.

I'll ask Mr. 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 Sprint/Nextel IV New York - 0423 for a site plan and special permit for the modification of an existing wireless telecommunications facility consisting of replacing and/or installing antennas and associated unmanned equipment on premises Newburgh Mall access drive, rear Meadow Hill Road in the Town of Newburgh, designated on Town tax map as Section 60; Block 3; Lot 35.1, IB

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2 Zone. Said hearing will be held on the 7th day  
3 of June 2007 at the Town Hall Meeting Room, 1496  
4 Route 300, Newburgh, New York at 7:00 p.m. at  
5 which time all interested persons will be given  
6 an opportunity to be heard. By order of the Town  
7 of Newburgh Planning Board. John P. Ewasutyn,  
8 Chairman, Planning Board Town of Newburgh. Dated  
9 May 21, 2007."

10 CHAIRMAN EWASUTYN: Cliff.

11 MR. BROWNE: Yes. There were twelve  
12 notices sent out, nine receipts returned, one  
13 undeliverable.

14 CHAIRMAN EWASUTYN: Thank you.

15 Mr. Gioffre, would you make your  
16 presentation.

17 MR. GIOFFRE: Thank you, Mr. Chairman,  
18 Members of the Board. Again, this is an  
19 application again by Nextel Telecommunications.  
20 At the existing premises there is an existing  
21 hundred and forty five foot tall tower. At the  
22 top of the tower -- this tower currently services  
23 the needs of three carriers, IWO Sprint is  
24 operating the antenna right at the top of the  
25 tower, T-Mobile is below Sprint and Cell One is

1  
2 below T-Mobile. At the top of the tower as it  
3 relates to IWO Sprint's existing array, the  
4 antennas are located within radome stealth  
5 covers. They have six antennas within these nine  
6 radomes. What we're proposing to do is to fill  
7 up the three unused radomes right now with three  
8 Nextel antennas, replace three of the existing  
9 IWO Sprint antennas with Nextel antennas and  
10 upgrade three of the existing IWO Sprint antennas  
11 with more current Sprint antennas.

12 At grade IWO Sprint currently has  
13 existing equipment within the fenced compound.  
14 We're proposing to relocate that equipment, put  
15 in a Nextel shelter in the same general vicinity,  
16 reconfigure the gate openings of the fence, put  
17 in a small gate opening here, closing off the  
18 existing gate opening as you enter. If you go up  
19 the access drive, plant two trees right in front  
20 of that so if you're driving up the road right  
21 now what you see is the fence compound and the  
22 equipment beyond. We're proposing to put in some  
23 trees right in the front of that with some  
24 bollards and removing two trees in an area that  
25 you really can't see when you're driving up the

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access road, and relocating the existing fence opening in that general location as well.

This proposal will enable Nextel to provide service coverage to an area again that has a critical gap in coverage for Nextel and we'll be able to provide I-87, Route 52, I-84 and the surrounding local roads in the general vicinity of the Newburgh Mall area.

We've submitted similar application materials as I indicated in the last presentation.

With respect to the aesthetics, basically for the tower what you see today is what you're going to see tomorrow. The antenna array and the radomes currently exist. The antennas will be located within those radomes. At grade there will be a slight modification with respect to the equipment but the fence compound is set back. The fence compound does not need to be extended, just the relocation of the gates.

We included the emissions analysis also in our materials. Again the cumulative emissions. In this case the emissions analysis took into consideration the existing T-Mobile and

1  
2 Cell One antennas. The cumulative emissions from  
3 this tower would be less than 1 percent of the  
4 threshold promulgated by the FCC and are  
5 0.27357 percent.

6 If the Board has any questions I'd be  
7 happy to --

8 CHAIRMAN EWASUTYN: At this point I'll  
9 turn the meeting over to the public for their  
10 comments. Does anyone this evening have any  
11 comments in reference to this application?

12 (No response.)

13 CHAIRMAN EWASUTYN: Mike Musso on  
14 behalf of the Planning Board, would you summarize  
15 your study of this project?

16 MR. MUSSO: Sure. Thanks again for  
17 having me here. Just to confirm, it's an  
18 existing monopole, a hundred and forty five feet.  
19 The appearance is not proposed to change, rather  
20 this is a plan view. Six of the antennas are  
21 being changed out. There will be six Nextel  
22 antennas and three new Sprint antennas, so all  
23 those shrouds or radomes will now be filled up on  
24 this proposal. Right now there are three that  
25 are actually empty. The net visual impact is

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zero of the towers and the antenna arrays themselves.

A couple things that were reviewed at the ground. There was a new pad that's being proposed here. The existing Sprint equipment is actually going to be located on that pad along with the proposed Nextel equipment also. Again, the outline and footprint of that ground-based area is not proposed to change appreciably for access and logistics. One of the gates is relocated as the applicant just mentioned and some of the landscaping -- some of the plantings are proposed to be removed with some new plantings.

We reviewed the same issues as we did on the other Nextel application, first being the need for the site. We looked at the coverage maps and the assumptions that those coverage maps were based on. Indeed this site will remedy another gap in service. This one predominantly on the Thruway but also parts of 84, Routes 300 and 52 and the surrounding commercial and other areas around the site.

The radiofrequency emissions were again



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2 well below the general public maximum permissible  
3 exposure level. This one is about 360 times  
4 below. Still significantly under. The reason  
5 for that is we have three operators operating  
6 right now. So all that was assumed.

7 We also received structural conditions  
8 with the increase in loading with the new cables  
9 and with the new antennas. In fact, we didn't see  
10 a need to request additional information on this  
11 one. We were satisfied that this monopole has  
12 the capacity to structurally accommodate the  
13 proposed facility.

14 I think that's about it. I know that  
15 the Landscape Architect may have some comments on  
16 this one.

17 CHAIRMAN EWASUTYN: Karen Arent,  
18 Landscape Architect.

19 MS. ARENT: I sent in comments that to  
20 best screen this monopole from the access drive  
21 and points beyond it would make sense to put  
22 street trees along the Newburgh Mall access drive  
23 about forty feet on center. That will help  
24 screen the views from cars on that road as well  
25 as cars -- as well as from the residents beyond.

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In addition to the planting that they're showing on the plan, they should have soil specifications to give the plants the best shot to live. They should show about two feet of soil being put in where the plants are proposed and the roadbed removed. So if you could just add that detail to be good topsoil. It could be raised up slightly, too. Six to eight inches above the grade.

CHAIRMAN EWASUTYN: Karen, they'll have to provide you with a landscape estimate which then will have to be approved by the Town Board. A bond will be in place and based upon that bond an inspection fee would be necessary.

MS. ARENT: Yes.

MR. GIOFFRE: I would just question, given the concern with respect to shielding the tower, it's an existing tower, why Nextel would have to come in and provide additional landscaping to shield the tower if there's no impact from today until tomorrow because of what's there? We're not putting any additional arrays on the top, we're basically just putting antennas within existing radome canisters at the

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top.

CHAIRMAN EWASUTYN: I think it's a good question and we appreciate that kind of thought process. It's an amended site plan. Under the review of an amended site plan we're looking at the potential visual impacts. We're also realizing that the Newburgh Mall is talking about expansion. We're also aware of the fact that there's a truck storage facility in front of this project that eventually will come in for site plan approval. So what we're doing is we have a long-term plan as far as balancing the community character. We think at this particular point in time it would be good to establish shade trees that in future time will be growing to a height that will mitigate some of the visual impact.

MR. GIOFFRE: Mr. Chairman, I would just ask if that can be a condition of any approval this Board would be willing to grant so we can work post approval with Ms. Arent?

CHAIRMAN EWASUTYN: I think that's reasonable.

Comments from the Board Members. Cliff Browne?

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MR. BROWNE: I'm good with that.

MR. MENNERICH: The only other thing I would add is the existing landscaping that was there wasn't maintained well at all. A lot of it was dead. I think this approach with using trees along the driveway, they have a better chance of surviving and actually blocking some of the view of at least the lower part for the equipment.

MR. GIOFFRE: Understood.

CHAIRMAN EWASUTYN: Thank you. Ed O'Donnell?

MR. O'DONNELL: Nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing further.

CHAIRMAN EWASUTYN: We're at the same point in time as we were with the last application. We do need to circulate to the Orange County Planning Department.

I would like to make a motion to the Board to close the public hearing subject to you being willing to waive the sixty-two day timeframe. We would act on this under Board business also at our meeting of July 19th.

MR. GIOFFRE: We'll grant such waiver.

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CHAIRMAN EWASUTYN: Thank you. With this motion I'm going to move that we close the public hearing for the Sprint/Nextel application with the understanding that the applicant is waiving the sixty-two day decision period and that we will refer it on to the Orange County Planning Department.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Mr. Gioffre, if you'll make plans available to Bryant Cocks' and Ed Garling's office.

MR. GIOFFRE: I'll do so.

CHAIRMAN EWASUTYN: Mike, is there

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anything you would like to add at this time?  
MR. DONNELLY: Because this is an amended approval we'll recite the issuance of the earlier one. We'll include a condition if this is not satisfied by July 19th we'll remain that the plans shall not be signed until receipt of a letter from Karen Arent, the Town of Newburgh Landscape Consultant, certifying that the street tree plantings have been added to the plans to her satisfaction. A requirement of the maintenance and inspection of the ground-based security fencing. The requirement, because this is cumulative, of a post-operational test in the area of the tower to make sure it comes under the cumulative measurements under whatever the terminology is but it's in here. The ARB. It has to be built consistent with the renderings. Because there are two other towers on this -- two other carriers on this tower, the performance security removal bond amount for you would be \$25,000. An annual certification letter with the restriction of no enlargement without Planning Board approval. A landscape bond as was mentioned. You'll have to work on the numbers

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2 with Karen Arent and proceed to the Town Board.  
3 A prohibition on the erection of any structures  
4 not shown on the site plan. Lastly, Mike Musso  
5 has suggested in his memorandum that we receive a  
6 periodic report, or the building department  
7 receive a periodic report on the status of  
8 equipment consolidation as between Nextel and  
9 Sprint given the merger of the companies just so  
10 they know where things stand.

11 MR. GIOFFRE: With respect to that  
12 issue, currently as you're all aware Sprint and  
13 Nextel have indeed merged. The company does  
14 still have the respective licenses for two  
15 companies and are required to build on those  
16 respective networks.

17 MR. DONNELLY: Two different  
18 technologies. Given there are the two companies  
19 we would like to be kept abreast on some  
20 realistic periodic basis if that changes.

21 MR. GIOFFRE: I'm confident if it's  
22 modified we'll have to seek approvals before you  
23 at that time in any case.

24 CHAIRMAN EWASUTYN: I think that  
25 concludes the business. Thank you.

SPRINT/NEXTEL IV NY - 0423

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MR. GIOFFRE: Thank you very much.

(Time noted: 10:03 p.m.)

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

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

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DATED: June 27, 2007



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

----- X

In the Matter of

ORANGE LAKE NORTH COMMUNICATION FACILITY  
(2007-13)  
929 Orchard Drive  
Section 1; Block 1; Lot 57  
AR Zone

----- X

SPECIAL USE PERMIT  
AMENDED SITE PLAN

Date: June 7, 2007  
Time: 10:04 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: JOSEPH E. PROFACI  
DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
EDWIN GARLING  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: KEVIN BRENNAN

----- X

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

ORANGE LAKE NORTH COMMUNICATION FACILITY

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CHAIRMAN EWASUTYN: The next item of business we have is Orange Lake North communication facility. It's an amended site plan located on Orchard Drive. It's in an AR Zone. It's being represented by Kevin Brennan.

MR. BRENNAN: Basically it's a very simple application. At least we hope so. It's an American tower site. It's an existing site. Nextel is on the site today. It was an old eighteen-foot tower. We're looking to co-locate on it. Our equipment is being installed in the existing building. I believe that we're putting up two arrays, four antennas and it's called a bisector site. Pretty much we're going to conform to what's there now.

CHAIRMAN EWASUTYN: Thank you. Mike Musso, do you want to bring us along on this application please.

MR. MUSSO: Thanks again. This is a co-location on an existing tower. We do not have a report submitted yet but we will in the next week or two have one to you.

Four antennas are being proposed at the

ORANGE LAKE NORTH COMMUNICATION FACILITY

1 162  
2 a hundred and twenty foot level. Existing  
3 equipment, again the footprint is not proposed to  
4 be changed at the bottom of the tower. There is  
5 a thousand square foot building that exists that  
6 I understand is vacant right now.  
7 What our firm is doing, we're reviewing  
8 the structural integrity of this existing tower  
9 and also looking at a condition survey of both  
10 the tower and the building.  
11 What we have looked at at this point is  
12 a radiofrequency emissions. As expected, they're  
13 significantly below that maximum permissible  
14 exposure level.  
15 We're also looking at some things,  
16 there's no fuel storage or anything else proposed  
17 at the bottom.  
18 I guess one thing I would like to get  
19 your input on as we're tying up the report is the  
20 existing building. Again, we'll review the  
21 conditions survey but exactly what you need our  
22 firm to evaluate in terms of the existing  
23 building that's down below. Again, this is --  
24 CHAIRMAN EWASUTYN: What  
25 recommendations would you make? I mean I read

ORANGE LAKE NORTH COMMUNICATION FACILITY

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the report. I read a study of the report. The report said that they have a leaky roof. They went in, they apparently repaired the leaky roof. What more would you suggest?

MR. MUSSO: In terms of any kind of color change or anything like that.

CHAIRMAN EWASUTYN: Karen, have you looked at the site?

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: I know you made a recommendation to leave everything just the way it is more or less because it blends in. Do you have any suggestions as far as any changes, ARB changes to the building?

MS. ARENT: I think that it's not visible during winter months because the vegetation is so thick but I'm not a hundred percent sure. I didn't think about the color change. If I can look at it one more time.

CHAIRMAN EWASUTYN: We have that time between now and when we close.

MR. MUSSO: We do.

MS. ARENT: I would like to double check that.

ORANGE LAKE NORTH COMMUNICATION FACILITY

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MR. MUSSO: I guess one point. As you know from our work, any changes we'll set forth if they have to be done in accordance, not only with the decisions made here but all applicable local or building codes and other things like that.

I think again favorable points about this application. It's an existing structure, something that again the code prefers. It's also using an existing building that's already present on site.

So again, there's several issues that we have to tie up, some of the same ones you've heard tonight. We hope to have a report to you shortly on this.

CHAIRMAN EWASUTYN: Okay. Comments from Board Members. Cliff Browne?

MR. BROWNE: Not at this time, no.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: No comment.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you.

ORANGE LAKE NORTH COMMUNICATION FACILITY

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CHAIRMAN EWASUTYN: Mike, we had discussed during the work session that this project does have to be referred to the Orange County Planning Department. We could declare a negative declaration at this point, circulate to the Orange County Planning Department and set a date for a public hearing.

MR. DONNELLY: That's correct.

CHAIRMAN EWASUTYN: Mr. Brennan, you had made plans available to Bryant Cocks from Garling Associates, our Planning Consultant. We'll circulate this to the Orange County Planning Department because you are within five hundred feet of a State road. Okay.

MS. ARENT: The building I understand is white. We would just request it be painted an earth tone building and that would be satisfactory.

CHAIRMAN EWASUTYN: We'll make that part of the closing comments after the public hearing.

MR. BRENNAN: I couldn't hear.

MS. ARENT: I understand the building is white. If you're willing to just paint it an

ORANGE LAKE NORTH COMMUNICATION FACILITY

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2 earth tone color, that would satisfy that  
3 concern.  
4 CHAIRMAN EWASUTYN: I'll move for a  
5 motion from the Board to declare a negative  
6 declaration for the special use permit and the  
7 amended site plan for Orange Lake North  
8 Communication Facility, and to refer this to the  
9 Orange County Planning Department, and to set  
10 August 2nd for a public hearing.  
11 MR. MENNERICH: So moved.  
12 MR. PROFACI: Second.  
13 CHAIRMAN EWASUTYN: I have a motion by  
14 Ken Mennerich. I have a second by Joe Profaci.  
15 Any discussion of the motion?  
16 (No verbal response.)  
17 CHAIRMAN EWASUTYN: I'll move for a  
18 roll call vote starting with Frank Galli --  
19 excuse me. Cliff Browne.  
20 MR. BROWNE: Aye.  
21 MR. MENNERICH: Aye.  
22 MR. O'DONNELL: Aye.  
23 MR. PROFACI: Aye.  
24 CHAIRMAN EWASUTYN: Aye myself.  
25 Bryant, would you make it a point of

ORANGE LAKE NORTH COMMUNICATION FACILITY

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putting together something to get off to the assessor's office for the public hearing?

MR. BRENNAN: Thank you very much.

CHAIRMAN EWASUTYN: If you make it a point within the next week or two of speaking to Bryant Cocks, he'll give you the list for the mailing for the public hearing.

MR. BRENNAN: That would be Tony Stalato from Clough, Harbor engineering firm will contact you.

CHAIRMAN EWASUTYN: Dina, make a note this will be on for the --

MS. HAINES: August 2nd.

MR. BRENNAN: May I ask one question just for my own -- I notice the applicant before, you're sending it to Orange County after. We'll actually have their comment before the public hearing?

MR. DONNELLY: We didn't realize it needed to be done or we would have done it earlier. You're the lucky one.

MR. BRENNAN: I wanted to clarify that. Thank you very much.

(Time noted: 10:10 p.m.)



CERTIFICATION

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

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DATED: June 27, 2007

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

----- X

In the Matter of

EASTERN ORANGE DEVELOPMENT  
(2005-42)  
Equestrian Drive off Prospect Hill Road  
Section 1; Block 1; Lot 67  
AR Zone

----- X

FIVE-LOT SUBDIVISION

Date: June 7, 2007  
Time: 10:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- CLIFFORD C. BROWNE
- KENNETH MENNERICH
- EDWARD T. O'DONNELL, JR.
- JOSEPH E. PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- EDWIN GARLING
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

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

EASTERN ORANGE DEVELOPMENT

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CHAIRMAN EWASUTYN: The next item of business is Eastern Orange Development. It's a five-lot subdivision located on Equestrian Drive off of Prospect Hill Road. It's in an AR Zone and it's being represented by Jim Raab.

MR. RAAB: We had a number of housekeeping items to clean up as well as address the comments from the Town of Plattekill. That's all pretty much been done.

We have the comments from the consultants. We have really no problems with any of the comments they had. What we are in the process of doing is deciding which way we're going to come out of here. It's a cost thing. That's why we're still wrestling with it. We sent out plans for bids and we haven't got them all back in yet.

At this point in time I believe we're going to be -- this goes along with Karen's comment about the stonewall. We're probably going to be moving the drainage. If we do go this way we're going to be moving it to the other side of the road so we don't even get close to

EASTERN ORANGE DEVELOPMENT

171

1  
2 the stonewall. As far as putting up the fence  
3 you requested, we have no problem with that. We  
4 have no problem with moving the houses closer but  
5 you have to realize these are 3,600 square foot  
6 footprints. They can shrink up. They are taking  
7 into consideration any patios, decks, porches  
8 whatever that would be on the house up in here.  
9 We are going to shift as many of them forward as  
10 we possibly can. That's pretty much it.

11 As I said, we don't have a problem  
12 moving the houses. We're going to try to shift  
13 as many forward as possible. Everything else is  
14 pretty much in order.

15 CHAIRMAN EWASUTYN: Thank you. I'll  
16 start with Pat Hines, our Drainage Consultant.

17 MR. HINES: We just have a note a  
18 four-foot retaining wall has been added to the  
19 lot that had questionable building area. That's  
20 been shown and appropriate details are included  
21 in the plans. Because that retaining wall is  
22 required for the lot to be buildable, they will  
23 have to be bonded or constructed prior to I guess  
24 final approval.

25 The sand specification for the Elgin

EASTERN ORANGE DEVELOPMENT

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in-drain system is needed on the plans.

We have a comment regarding the two alternatives for drainage. We'll be looking towards finalizing that.

It depends on an easement too it looks like, yes or no? An easement.

MR. RAAB: That's the other part of the negotiation. They are asking for things so we're trying to tally up the cost of what they're asking for. They want their driveway repaved and those things. We don't have a problem, we just want to know what the cost is this way versus the cost that way. We're almost there.

MR. HINES: I think we've received some public input on this project already so we wanted to have the I's dotted and the T's crossed before the public hearing.

The deep test data needs to be added to the plans.

We talked at work session if you could move the private road out of the center, more towards the proposed lots in order to preserve that stonewall. Right now the grading is shown right into the stonewall.

EASTERN ORANGE DEVELOPMENT

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MR. RAAB: I don't see a problem with that.

MR. HINES: I think you can off center that and keep the swales and preserve the stonewall, not disturb it. That's all we had.

CHAIRMAN EWASUTYN: Comments from Board Members. Cliff Browne?

MR. BROWNE: I'm good.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: Nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you.

CHAIRMAN EWASUTYN: Mike Donnelly?

MR. DONNELLY: Quickly on the issue of access. Jim supplied me with a good deal of materials including the 1990 plat where they showed this was intended for future access. The existing roadway and maintenance agreement isn't quite as clear as the plat. We are told that some neighbor is going to bring additional materials to our attention disputing that. We can only deal with them when we get that. I

EASTERN ORANGE DEVELOPMENT

174

1  
2 might suggest to you ahead of time you perhaps  
3 have a title company put together a letter with a  
4 certification that they would ensure the access  
5 to those additional lots so that the Planning  
6 Board has that type of third-party certification  
7 and we don't have to serve as the arbitrator of  
8 the dispute. You may want to wait until those  
9 materials are in to ask the title company to  
10 comment upon it but I think you may need to get  
11 that type of approach lined up.

12 MR. RAAB: We feel very comfortable  
13 with what we have right now. It was a title  
14 company that actually did the research for us. I  
15 don't normally have a problem with that request  
16 at all.

17 CHAIRMAN EWASUTYN: Jim, we're going to  
18 ask you to revise your maps and resubmit.

19 MR. RAAB: I would really like to have  
20 a public hearing. I mean set. There's a  
21 financial issue involved and that's the only  
22 reason why I ask. We can get everything you need  
23 ready for that public hearing.

24 CHAIRMAN EWASUTYN: I think at this  
25 point Pat Hines said earlier we would like to

EASTERN ORANGE DEVELOPMENT

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have all the I's dotted and T's crossed.

MR. RAAB: Do you really think that's -- I mean as far as what's concerned, we have all our I's dotted and T's crossed. All we have to do is --

MR. HINES: You don't have the deep test information for the septics.

MR. RAAB: That's because my --

MR. HINES: The drainage, I don't know which way it's going.

MR. RAAB: We've supplied you with the data on both ways.

MR. HINES: We can't approve a plan like that. We know there's going to be public controversy here. We want the plan in such a form we can discuss the issues in the plan that's going to be ultimately approved.

MR. RAAB: Okay.

CHAIRMAN EWASUTYN: Thank you, Jim.

(Time noted: 10:15 p.m.)



CERTIFICATION

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

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DATED: June 27, 2007

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

----- X

In the Matter of

EXETER BUILDING CORP.  
(2002-26)  
Route 17K  
Section 89; Block 1; Lot 1.22  
R-1 Zone

----- X

RESIDENTIAL SITE PLAN

Date: June 7, 2007  
Time: 10:15 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- CLIFFORD C. BROWNE
- KENNETH MENNERICH
- EDWARD T. O'DONNELL, JR.
- JOSEPH E. PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- EDWIN GARLING
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT

APPLICANT'S REPRESENTATIVE: DAVID HIGGINS

----- X

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

EXETER BUILDING CORP.

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CHAIRMAN EWASUTYN: The next item of business this evening is Exeter Building Corp. It's a residential site plan located on Route 17K, it's in an R-1 Zone and it's being represented by Dave Higgins.

MR. GOLDEN: Mr. Chairman, Members of the Planning Board, my name is Richard Golden, I'm the attorney for this application. With me is Bill Fried, the owner; Dave Higgins; and Steve Lopez from Tim Miller Associates.

As you know, this is for a site plan approval. We had put it in as a request for a conditional final approval. We are now withdrawing that request for a conditional final approval and are requesting a preliminary approval. We believe we have revised the plans and submitted them in a timely manner to this Board. The public hearing has been completed. We have a negative declaration that was declared by this Board with respect to SEQRA and this project is not subject to a 239 referral to the Orange County Planning Department, therefore we believe that there's really no impediment for a preliminary approval at this time.

EXETER BUILDING CORP.

179

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2 We're happy to answer any questions  
3 with respect to it. I would ask for your  
4 indulgence in commenting upon or weighing in on  
5 any conditions that would go on the preliminary  
6 approval and any comments of your consultants.

7 CHAIRMAN EWASUTYN: Okay. At this  
8 point I'll turn to the Planning Board Attorney,  
9 Mike Donnelly.

10 MR. DONNELLY: As you know, this  
11 project has been before you for quite a period of  
12 time, I think going back to 2002, and during the  
13 course of your review of the project the land was  
14 rezoned from R-3 to R-1. There was a challenge  
15 brought against that rezoning in the courts and  
16 the Supreme Court in Orange County vacated or  
17 rescinded the local law returning this property  
18 to its R-3 zoning district status. There had  
19 been a belief that a strong argument existed that  
20 the automatic stay applied and there were --  
21 there was informal discussion regarding what the  
22 Town would and would not do in regard to the  
23 possibility of rezoning the property while the  
24 appeal was pending. At the same time this Board  
25 agreed that the applicant would be permitted to

EXETER BUILDING CORP.

1 180  
2 continue to meet with the Board and its  
3 consultants in order that the applicant could  
4 continue to move forward with whatever other  
5 technical review and additional agency approvals  
6 would be required before it could receive an  
7 approval in the event that the Appellate Court  
8 upheld the determination of the Supreme Court.  
9 For various reasons the status of that automatic  
10 stay has been called in to question and in lieu  
11 of reliance upon it the Town Board has entered  
12 into a stipulation with Exeter, a copy of which  
13 was delivered to me this evening and I mentioned  
14 to you earlier.  
15 Under that stipulation the important  
16 provisions are as follows: Exeter and Newburgh  
17 agree that Exeter will not apply to the Town of  
18 Newburgh Planning Board for conditional final or  
19 for final approval of the Madison Green or Exeter  
20 project unless it provides the Town and the  
21 Planning Board, I would say with thirty days  
22 notice of its intent to do so. In exchange for  
23 that promise and other promises here, Mr. Golden  
24 has already indicated that he's withdrawing the  
25 request that he had earlier put in his letter for

EXETER BUILDING CORP.

1 181  
2 a conditional final approval this evening. The  
3 Town on the other hand agrees that if it elects  
4 to move forward with some second wave or  
5 additional rezoning of Exeter or other properties  
6 that include Exeter properties within the Town,  
7 that it will give Exeter thirty days written  
8 notice of its intent to do so before beginning  
9 that. Finally, all of the parties or both  
10 parties, the Town as well as Exeter, reserve  
11 whatever other rights they have to proceed to the  
12 Court.  
13 In exchange for those mutual promises  
14 the applicant is here to ask you for a  
15 preliminary approval of the site plan that  
16 appears before you. I think quite some time ago  
17 you had indicated at a public meeting that, but  
18 for at that time the sewer moratorium, that you  
19 were prepared to issue a preliminary site plan  
20 approval. I don't see anything but one exception  
21 that has changed since that time. That exception  
22 is the buffering law that was enacted after the  
23 lawsuit was commenced that may require, and I  
24 don't know that that's been finally resolved but  
25 may require a slight adjustment, something on the

EXETER BUILDING CORP.

1 182  
2 order of five feet, to a portion of the property  
3 that faces Route 17K. It seems to me that  
4 there's enough land there and it's a relatively  
5 minor enough adjustment that you are certainly  
6 permitted to grant a preliminary approval on  
7 condition that that adjustment be made to the  
8 satisfaction of yourselves and your consultants  
9 before final approval is granted by you.  
10 I think the resolution, if you're going  
11 to act on it, should recite the other agency  
12 approvals that will be required before the  
13 applicant can return to you for final approval.  
14 Given where we stood on this I had earlier sent a  
15 copy of the draft resolution to Mr. Golden's  
16 office so that he could see it and report to us  
17 on the status of those other agency approvals.  
18 Had I had more time with what was going on I  
19 would have spent some time with Pat to see where  
20 they stood. We certainly can go down, if we get  
21 to it, the draft resolution, there's a checklist,  
22 to see what else needs to be added.  
23 CHAIRMAN EWASUTYN: Thank you.  
24 Questions from the Board Members before  
25 I turn to our consultants for their comments at

EXETER BUILDING CORP.

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this point. Cliff Browne?

MR. BROWNE: I think we discussed it to my satisfaction through work session and what we've heard now to my satisfaction.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have no further questions.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: I have nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you.

CHAIRMAN EWASUTYN: Bryant Cocks, we discussed the buffer regulations. Can you clarify that for us at this point?

MR. COCKS: On the plans the buffer is labeled as forty feet. It actually is forty-five feet. The buffering law states that they have to be forty-five feet to three hundred and fifty feet from the center line of Drury Lane and Route 17K. There can't be any parking in this buffer area. There is one area by building 22 that stretches into it so that's what has to be adjusted.

CHAIRMAN EWASUTYN: Mr. Golden, do you



EXETER BUILDING CORP.

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understand that?

MR. GOLDEN: Yes, I do. We will certainly be happy to add that as a condition to any preliminary approval and we will adjust that prior to final approval.

CHAIRMAN EWASUTYN: Ed Garling.

MR. GARLING: We also spoke about this issue that's come up on Brighton Green and other projects in the past about decks and patios and the terraces or patios which are allowed should be shown and noted separately from other areas which might be decks. There are a number of patio areas that protrude into the setback lines, which is fine as long as they're patios. They should be noted. We discussed that as a condition of final approval on the final plan.

CHAIRMAN EWASUTYN: Thank you. Pat Hines, Drainage Consultant.

MR. HINES: We previously reviewed the plans with regard to grading, erosion, sediment control, the stormwater management, water and sewer. We had stated on the record probably a year ago now that the plans were in an appropriate form for preliminary. I did receive

EXETER BUILDING CORP.

1 185  
2 a set of plans from Lanc & Tully's office,  
3 however not knowing the legal issues that were  
4 going around I thought this was scheduled  
5 initially for just a continuation but in speaking  
6 with Mr. Higgins today I was able to review the  
7 plans and the minor changes that have been made  
8 for the buffering. I still feel that the plans  
9 are in an appropriate form for preliminary  
10 approval so they can seek their outside agency  
11 approvals.

12 CHAIRMAN EWASUTYN: Karen Arent.

13 MS. ARENT: I have one concern with the  
14 plans and that is the street scrape and the units  
15 has changed dramatically. Now you have to go  
16 down to get to the garages. All the first floor  
17 elevations that were on the plans previously,  
18 there's no first floor elevations any more.  
19 There's like a lot of -- a lot of my concern is  
20 you have to go down to get into it. There's  
21 steps that you have to go up. The street scape  
22 is totally different than what we saw in the  
23 past. I don't even know if it's going to be easy  
24 to open car doors when you have concrete walls so  
25 close to your parking spaces, and you're also

EXETER BUILDING CORP.

1 186  
2 having them downhill. I really couldn't review  
3 the grade situation because there's no finished  
4 floor any more on the plans. They were on the  
5 previous set that was submitted a year ago.  
6 MR. DONNELLY: Are those solely ARB  
7 issues or do they relate --  
8 MS. ARENT: Not really because -- well,  
9 what do you think, Pat?  
10 MR. HINES: I'm not sure that the scale  
11 on that drawing -- it looks very dramatic. I  
12 don't think anyone is intending on having a six-  
13 foot drop into the garages. We'll look at that  
14 between preliminary and final. There may be  
15 drainage issues. The first floor elevations  
16 should be shown. I think we have the  
17 infrastructures laid out and the building  
18 structures.  
19 MS. ARENT: If we can just massage  
20 the --  
21 MR. DONNELLY: I'll make a note of  
22 that.  
23 MS. ARENT: There's another minor  
24 comment that the recreation spaces that were  
25 previously shown, one of them was eliminated due

EXETER BUILDING CORP.

1 187  
2 to the buffer constriction.  
3 CHAIRMAN EWASUTYN: Do you plan on  
4 replacing the recreation area?  
5 MR. LOPEZ: It simply wasn't on the  
6 plans. We noticed that today. It was replaced  
7 in substantially the same location.  
8 CHAIRMAN EWASUTYN: Understanding that,  
9 what Karen is just discussing with us right now  
10 are the basements, are they --  
11 MR. LOPEZ: I think you have to realize  
12 of course that the grade -- the topo on the site  
13 varies significantly from downhill units to  
14 uphill units to units that are relatively level  
15 from the road across the back. I think what we  
16 tried to show was the worst-case scenario with  
17 the units that you were just looking at. With  
18 the units that are built into a hillside, that  
19 drive may go relatively level into the bottom  
20 floor of the unit with the first floor being set  
21 into the hillside with the walkout on the first  
22 floor in the back of the unit. Similar  
23 arrangements will be worked out with the downhill  
24 unit and so on and so forth. So I think it's  
25 obvious that these units will look differently

EXETER BUILDING CORP.

1 188  
2 depending on the topo that they are built into.  
3 In some cases the topo raises across the front.  
4 There are different situations.  
5 CHAIRMAN EWASUTYN: Karen, what would  
6 you need?  
7 MS. ARENT: Are the finished floor  
8 elevations the same as you presented a year ago?  
9 That was perfectly --  
10 MR. HIGGINS: I think we just left them  
11 off the plan.  
12 MS. ARENT: Now we're showing steps and  
13 -- those first floor elevations on the previous  
14 plans only showed three steps. If those first  
15 floor elevations are correct, then I'm satisfied.  
16 MR. HIGGINS: If they shift it will be  
17 a minor shift. The road only shifted five feet  
18 in places.  
19 MS. ARENT: This does show a much more  
20 dramatic shift.  
21 MR. LOPEZ: Half the steps are down and  
22 half the steps are up. You may be reading the  
23 drawing a little --  
24 MS. ARENT: I'm not reading --  
25 MR. GARLING: The drawing shows

EXETER BUILDING CORP.

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something that could happen.

MS. ARENT: We didn't approve -- this is not what your grading plan showed that was submitted.

CHAIRMAN EWASUTYN: That's important to note. At this point in the evening we won't spend more time but I think Ken Mennerich and all of us looking at it are quite unclear. I would like you to supply Karen with information that's supportive of what it is that you do plan on building there.

MR. HINES: It will need an ARB eventually also.

CHAIRMAN EWASUTYN: By the time we have ARB we'll have a clearer understanding of it.

Mike, the motion before us this evening is to --

MR. DONNELLY: Grant preliminary approval. If I could I'll go through the resolution quickly. First I'll need to have the updated revision dates and plan set because I suspect what I recited in the resolution is out of date. I don't mean right now.

MR. GOLDEN: We will supply that.

EXETER BUILDING CORP.

1 190  
2 MR. DONNELLY: Number one, my  
3 recitation of the other agency approvals that are  
4 required. I believe we'll need a DOT approval of  
5 the driveway location. I think that we need to  
6 have either a jurisdictional determination or an  
7 Army Corp permit for the wetlands. I forget  
8 which it is but we'll need to have appropriate  
9 signoff regarding the Army Corp of Engineers.  
10 We'll need Health Department approval on the  
11 water main extension, DEC approval on the sewer  
12 main extension, and a stormwater SPDES permit,  
13 Town Board approval of the drainage district  
14 which I know they have approved by vote but we  
15 will not sign the final plans or approve them  
16 until the district is created, and the  
17 conditions, at least those that can be approved  
18 -- that can be satisfied before final approval.  
19 I think the final plans will need to show street  
20 trees spaced in a pattern satisfactory to the  
21 Landscape Architect.  
22 MR. HINES: This is site plan also.  
23 MR. DONNELLY: I know but there's still  
24 a landscaping plan. We'll make it more generic.  
25 A satisfactory landscape plan before final.

EXETER BUILDING CORP.

1 191  
2 Is there any requirement of any roadway  
3 names being approved by the Town Board?  
4 CHAIRMAN EWASUTYN: These are all  
5 private.  
6 MR. GOLDEN: These are all private.  
7 MR. DONNELLY: We don't need that?  
8 CHAIRMAN EWASUTYN: Private roads are  
9 also approved.  
10 MR. DONNELLY: For 911 purposes.  
11 MR. HINES: It probably does.  
12 MR. DONNELLY: We'll leave it there.  
13 CHAIRMAN EWASUTYN: I think it might be  
14 better to do that.  
15 MR. DONNELLY: We'll need to see the  
16 condominium association bylaws and those  
17 restrictions that are intending to carry forth,  
18 like no parking and other provisions that are  
19 part of the presentation, we want to make sure  
20 they're in there. I think we need an out-of-  
21 district sewer user agreement, or was that  
22 obtained?  
23 MR. GOLDEN: It's going to be a sewer  
24 extension. A sewer district extension. We've  
25 already received a conditional approval for both



EXETER BUILDING CORP.

1 192  
2 the water and sewer district extensions so there  
3 will be no need for an out-of-district user.  
4 MR. DONNELLY: I had included a  
5 provision regarding the merging of parcels but  
6 Mr. Golden tells me that has been accomplished  
7 already. We will need to petition, and I think  
8 we agreed to this, to the Town Board for the  
9 Vehicle & Traffic Law allowing enforcement within  
10 the private roadway system of restrictions like  
11 no parking or handicap parking. I think that was  
12 agreeable. We've just heard we want to see a  
13 specification of the deck and patio areas with  
14 clarity on the final set of plans. We're of  
15 course reserving ARB approval. We will require  
16 that we have a satisfactory street scape and  
17 recreation area plan as part of the final  
18 submission. As part of the final approval, just  
19 so that they are in the resolution, our standard  
20 requirements are there will be a landscape  
21 security and inspection fee, a stormwater  
22 improvement security and inspection fee, water  
23 main inspection and security fee, sewer main  
24 inspection and security fee, a private road  
25 security and inspection fee. I don't think there

EXETER BUILDING CORP.

1 193  
2 are any offers of dedication. Well, there will  
3 be for some of the drainage structures, or no?  
4 MR. HIGGINS: I'm not sure. Is the  
5 Town going to be looking for an easement?  
6 MR. DONNELLY: I don't know what the  
7 Town Board did on the drainage district petition.  
8 I'm sure there's some fee interest they want.  
9 MR. HIGGINS: I don't believe we  
10 actually filed a petition.  
11 MR. HINES: It's a site plan. The HOA  
12 will be responsible for the long-term operation  
13 and maintenance.  
14 MR. GOLDEN: I don't think that's  
15 appropriate.  
16 MR. DONNELLY: There's no drainage  
17 district. I thought there was. Okay. Fine.  
18 Our condition that there be no outdoor fixtures  
19 or amenities constructed that are not shown in  
20 the plans, and of course the requirement of the  
21 posting of parkland fees. Get rid of the  
22 drainage district. I think that would be the  
23 conditions that are required.  
24 CHAIRMAN EWASUTYN: Mr. Golden, would  
25 you like to comment?

EXETER BUILDING CORP.

1 194  
2 MR. GOLDEN: Yes. Thank you very much.  
3 On condition number 4, I thought that we did not  
4 need the DEC approval for the sewer main  
5 extension. Is that not correct? We still need  
6 that?  
7 MR. HINES: I believe so. Also you're  
8 going to need their approval for a sewer district  
9 extension.  
10 MR. GOLDEN: We'll keep it in there.  
11 If it turns out we don't need it --  
12 MR. HINES: There was a question on the  
13 force main issue too, construction of that force  
14 main within 17K. Are you designing it or  
15 building it?  
16 MR. HIGGINS: We're working on the  
17 design. I think Rick is asking the question  
18 because when we had the meeting in Jim Osborne's  
19 office we talked about the review of the sewer  
20 collection system and the pump station and the  
21 force main. My recollection is that we decided  
22 that Jim was going to be able to review that  
23 because it was a single user, that user being the  
24 HOA.  
25 MR. HINES: It is on your site but

EXETER BUILDING CORP.

1 195  
2 there were improvements to the existing Town  
3 force main serving adjoining --  
4 MR. HIGGINS: What Jim had said is that  
5 may not be done for ten years. At the meeting he  
6 said he would be able to do the review. Unless  
7 that's changed --  
8 MR. HINES: I haven't heard that.  
9 MR. GOLDEN: We can keep that in there.  
10 MR. DONNELLY: If you have a letter  
11 that says it isn't needed it's settled.  
12 MR. GOLDEN: Also in 4, I'm a little  
13 confused on having this approval subject to a  
14 SPDES permit which is normally --  
15 MR. HINES: Stormwater SPDES permit.  
16 MR. DONNELLY: Because of the acreage  
17 involved.  
18 MR. HIGGINS: That's at the time of the  
19 construction they actually get the permit;  
20 correct?  
21 MR. HINES: Yeah.  
22 MR. HIGGINS: Five days before?  
23 MR. HINES: Five days before.  
24 MR. GOLDEN: We wouldn't need that  
25 prior to final approval.

EXETER BUILDING CORP.

1 196  
2 MR. HINES: You don't.  
3 MR. DONNELLY: I'll move that down  
4 below.  
5 MR. GOLDEN: Also on number 5 --  
6 MR. DONNELLY: I'll switch that to  
7 extension of sewer districts and water districts  
8 because there is no drainage district required.  
9 MR. GOLDEN: That's fine.  
10 MR. DONNELLY: 6 will become a  
11 satisfactory landscape plan rather than just  
12 street trees.  
13 MR. GOLDEN: Right. 9 we have  
14 adjusted. 10 we eliminated. On the carryovers  
15 you've -- did you take out 5?  
16 MR. DONNELLY: Yes. The Town road is  
17 -- that was either one or the other and it's  
18 private.  
19 MR. GOLDEN: So 5 and 7 are both out.  
20 We have no further comments on the  
21 conditions then.  
22 CHAIRMAN EWASUTYN: Thank you. Having  
23 heard the conditions for preliminary approval for  
24 the Exeter Building Corp presented by Attorney  
25 Mike Donnelly and reviewed by the applicant's

EXETER BUILDING CORP.

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attorney, Rick Golden, all parties being in agreement, I'll move for a motion from the Board to grant preliminary approval for the Exeter Building Corp residential site plan located on Route 17K.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

MR. GOLDEN: Thank you very much.

(Time noted: 10:35 p.m.)

CERTIFICATION

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

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DATED: June 27, 2007

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

----- X

In the Matter of

DRURY HEIGHTS  
(1994-41)  
Drury Lane  
Section 89; Block 1; Lots 6 & 4.4  
R-1 Zone

----- X

140-LOT SINGLE-FAMILY CLUSTER

Date: June 7, 2007  
Time: 10:35 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- CLIFFORD C. BROWNE
- KENNETH MENNERICH
- EDWARD T. O'DONNELL, JR.
- JOSEPH E. PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- EDWIN GARLING
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT

APPLICANT'S REPRESENTATIVE: BRIAN BROOKER

----- X

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



DRURY HEIGHTS

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CHAIRMAN EWASUTYN: The last item of business we have this evening is Drury Heights. It's a 140-lot single family cluster, it's located on Drury Lane, it's in an R-1 Zone and it's being represented by Brian Brooker.

MS. ULLMAN: I'm Janet Ullman, Mr. Chairman.

CHAIRMAN EWASUTYN: Go ahead, Janet.

MS. ULLMAN: My name is Janet Ullman, I'm the attorney for Drury Heights. You know Brian Brooker and I believe you know Lane Demuro as well.

I just want to apologize in advance, my asthma has been very bad lately. If I have to stop and hold it in for a second, you'll forgive me. I promise I am not contagious in any way, shape or form so you don't need to worry. I apologize for that.

MR. O'DONNELL: You look relatively safe compared to what we've gone through tonight.

MS. ULLMAN: I'm actually incredibly healthy. It's a problem in my body. My immune system overreacts to things, which can be arguably a healthy thing. It's just annoying. I

DRURY HEIGHTS

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1  
2 apologize if it's annoying to anybody as well.  
3 Well, we're here because, as we all  
4 know, Exeter has just received its preliminary  
5 approval and we would like to request the same  
6 for many of the same reasons. Without an  
7 automatic -- I have read all the transcripts in  
8 this matter very carefully. It's my  
9 understanding that according to all the Town's  
10 consultants, other than the moratorium and then  
11 the zone change we're ready for preliminary.  
12 Many of the things that Mr. Golden said  
13 relating to Exeter apply to us as well. We have  
14 been before the Planning Board for many, many  
15 years as I think you're aware. Longer than for  
16 Exeter. We've been through a very extensive  
17 review which included a D.E.I.S., which Exeter  
18 did not go through, and we have been through  
19 numerous public hearings. I think the Board will  
20 probably agree that this applicant has really  
21 been very cooperative with the Board, has tried  
22 to do everything that the Board felt was  
23 important, and continues to do so. That's not  
24 something that's going to change.  
25 Without an automatic stay imposed by

DRURY HEIGHTS

202

1  
2 the appeal we're still under the old zoning so  
3 our old plan is good. There's no reason why we  
4 wouldn't be prepared for preliminary approval at  
5 this point. I think everybody knows that this  
6 project has been going on for a very long time.  
7 Obviously all the preliminary does is allow us to  
8 move forward towards final. It doesn't mean that  
9 there's nothing left that you can do as far as  
10 any problems go. It's my understanding there  
11 isn't really anything left to do for preliminary.  
12 We've pretty much been in a holding pattern,  
13 first because of the moratorium and then because  
14 of the stay. There are a lot of issues with  
15 relation to all of that that don't really apply  
16 with this issue. As far as the Exeter situation  
17 goes, I think all of their arguments for it  
18 apply. I think it's certainly reasonable to get  
19 preliminary tonight. I think we can -- if the  
20 Board has any concerns as far as granting it  
21 tonight, we can certainly resolve them probably  
22 right now. I don't think that will be a problem.  
23 I think, you know, it would be -- this applicant  
24 has been working very hard and it would be very  
25 unfair to let Exeter go ahead and get a

DRURY HEIGHTS

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2 preliminary and not us. I think there are a lot  
3 of differences between the two but mostly in our  
4 favor. We're a much less intensive project. We  
5 have been around a lot longer. We've also done a  
6 much more extensive review. There's nothing that  
7 we haven't looked at thoroughly.

8 I know that this matter was basically  
9 on the agenda and Mr. Brooker sent a letter  
10 saying depending on how the development went  
11 would affect how tonight went. Everything moved  
12 very quickly. I think Mr. Hines mentioned  
13 earlier tonight that all of these things kind of  
14 happened this week, the past couple days really.  
15 Today, yesterday. I mean at least as far as my  
16 voicemail is concerned. So what I'm hoping is  
17 that the Board will be able to grant tonight and  
18 there are -- you know, there may be some  
19 procedural things, and we can deal with that, but  
20 I believe -- you know, the consultants will  
21 correct me if I'm wrong but I don't think there's  
22 really anything open as far as our approval is  
23 concerned, as far as preliminary. Obviously as  
24 far as final there are a few issues that we'll  
25 have to deal with but they're all final. We've

1  
2 had our consultants meeting and I think everybody  
3 pretty much agrees that we're ready for  
4 preliminary. So that's what we would like to  
5 walk away from tonight with.

6 MR. DONNELLY: Let me see if we can  
7 start there. The one, Janet, I talked to you  
8 about in the hallway and we acknowledged if we  
9 were to return to we would need to amend the  
10 Findings Statement. I'm trying to remember --

11 MS. ULLMAN: I actually have two  
12 possible answers to that. No, no. I'm glad you  
13 raised it. I want to address whatever concerns  
14 anybody has so we can possibly move ahead. I  
15 would certainly make the argument, number one,  
16 you don't have to amend the Findings Statement  
17 because the only thing in the Findings Statement  
18 that is different is in the Findings Statement it  
19 says we're not permitted under the law.  
20 Everything else is the same. If we're under the  
21 old zoning; yes, we are.

22 MR. DONNELLY: What it said is you  
23 would have to submit a plan that conforms to the  
24 zoning.

25 MS. ULLMAN: But we have.

DRURY HEIGHTS

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MR. GARLING: Not if the --

MR. DONNELLY: Okay.

MS. ULLMAN: I'm pretty sure --

MR. DONNELLY: It's not insurmountable.

MS. ULLMAN: I'm going from memory but I think what it said was that the plan was under a zone that is no longer valid, therefore the plan is illegal, therefore we would have to submit a new plan that conforms to the new zoning law. If the new zoning law isn't in effect then we have already submitted a legal plan so I don't think you really have to amend the Findings at all. That's number one. That to me is the easiest thing.

Number two, if you do have to amend the Findings it's only with regard to that. It doesn't change any of the substance of the SEQRA findings that you made. They would all still apply, they're all exactly the same, the project, exactly the same. It seems that that is such a minor difference, which would be saying okay, well we said it wasn't legal and yes, it is. It's not even anything that would change anything as far as SEQRA is concerned because, again, all

1  
2 the environmental issues remain the same. As I  
3 think Mr. Donnelly would probably agree with me,  
4 even aside from the timing and the procedural  
5 things you have to deal with under SEQRA, the  
6 substantive review is what counts, and you did  
7 that. That's done. The Findings deal with that  
8 in depth. There's nothing in there that we're  
9 objecting to. We're willing to take it as it is  
10 basically.

11 I think as far as that issue goes,  
12 there's two possible ways of dealing with it,  
13 although if you count the second one as A and B  
14 maybe. I don't know how that would work but I  
15 don't think that that problem is really a  
16 problem.

17 Then there's an alternative resolution  
18 also, a third possibility which I'm not as  
19 thrilled with only -- well, for several reasons  
20 but I think Mr. Donnelly has not had the  
21 opportunity to prepare a resolution for us.  
22 Although I think they aren't really either there  
23 nor here, there are very few conditions. It  
24 probably wouldn't be necessary but we would  
25 certainly be willing to have a motion for

1  
2 approval tonight with the caveat that a formal  
3 resolution would be adopted at the next meeting,  
4 and that would not be a problem for us either. I  
5 think the Board knows from the history with this  
6 applicant we're not unreasonable. You know, as  
7 long as the conditions relate to the planning  
8 application we're not going to complain about  
9 them. We've done things that we haven't had to.  
10 We've done things the Planning Board has asked us  
11 to do that can't legally be required. I don't  
12 think that you really need to worry about that  
13 aspect of it if you want to go that route. I  
14 personally don't think you have to do anything at  
15 all because the Findings Statement is valid the  
16 way it is since the law is back to what it was  
17 essentially. If that's clear.

18 So I guess my next question is is there  
19 -- well, aside from that is there anything  
20 specific anybody else would like me to address  
21 before I further argue or conclude or -- I mean I  
22 obviously don't want to keep you all night so I  
23 promise I won't talk forever. You've had a long  
24 night. I know you had two -- three cell towers.  
25 MR. DONNELLY: That was the easy part.



DRURY HEIGHTS

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MS. ULLMAN: That really surprised me actually. In Rockland you get a million people out for cell towers.

MR. O'DONNELL: We send them down from Orange County.

CHAIRMAN EWASUTYN: Mike, do you want to address the Board on your recommendations?

MR. DONNELLY: Let me say nearly everything that Jan has told you is accurate in the sense of the appeal to fairness, and that is this applicant started before Exeter, they did a full environmental study that literally provided the information that allowed you to grant in many respects the negative declaration to Exeter and they were on the block first. By the same token, somehow Exeter managed through that to get ahead of things and they were able themselves to get the stipulation that they came in with. Since I had a little bit more advanced notice they put together a rough stipulation.

I mentioned two things at work session that I'll repeat now. One is the Town would prefer to have a stipulation in place. They tell me that their official position is that the

DRURY HEIGHTS

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1  
2 automatic stay is a question mark in their mind.  
3 They have asked in order that they can clear with  
4 the insurance company's appointed counsel who is  
5 defending the lawsuit that has been brought  
6 against the Town by Drury Heights, that they  
7 first clear the terms of the stipulation with  
8 that counsel before they prepare it and sign it.  
9 So that's a request that I think if you want to  
10 adhere to you should take into consideration but  
11 I don't think commands anything that you do  
12 because you're an independent body.

13       Next I think we need to know whether or  
14 not there are any other things that need to be  
15 done before we can issue the preliminary  
16 approval. The only one that came to my mind was  
17 how we handled SEQRA, and I was trying to read  
18 the Findings Statement as I was here. I thought  
19 it declared that an amended plan would have to be  
20 submitted. I certainly agree if you were going  
21 to grant preliminary approval now that would be a  
22 rather simple amendment to the Findings  
23 Statement. Nevertheless, that amendment would in  
24 fact need to be done. It can be done  
25 simultaneous with the approval. There's only a

DRURY HEIGHTS

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2 requirement of a waiting between the F.E.I.S. and  
3 the Findings. That would have to be done, and if  
4 it's a fairly simple matter I'm sure that  
5 paperwork could be accomplished.  
6 On the last issue Jan has raised, and I  
7 know it's an important practice to you that you  
8 have a resolution before you so your approval is  
9 not a vote taken in a vacuum. I prepare a  
10 resolution as soon as I open a file and I try to  
11 add to it in my notes as meetings go on, however  
12 the trailer on this one, meaning the last date  
13 when I made any changes, is June 14, 2004. I  
14 really haven't updated it since that time. I  
15 don't think it's a huge task, I think it's a  
16 matter of reciting what other agency approvals  
17 are required. Conceivably if you're inclined,  
18 after you hear a report of your other  
19 consultants, to believe that there is nothing  
20 left but the preparation of that document,  
21 perhaps you would be comfortable with putting it  
22 on as a board business item, I don't know, to  
23 give myself the opportunity to prepare that  
24 resolution, and if needed for Ed to make  
25 amendments to the Findings Statement and handle

DRURY HEIGHTS

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1  
2 it short order, and by then I assume that the  
3 Town would be able to complete the stipulation.  
4 There has been a request by the Town Board that  
5 you hold off taking that preliminary approval  
6 until they have a chance to clear it with  
7 insurance company counsel.

8 CHAIRMAN EWASUTYN: I'm going to argue  
9 the point and summarize the point. We're not  
10 going to act on it this evening, okay. I'm  
11 telling you why we're not going to act on it.  
12 Because Mike Donnelly is correct, this Board has  
13 never in the six years that we've been together  
14 approved something without a resolution in hand.  
15 We're not about ready to do that this evening.  
16 You could argue the point. This Board has been  
17 consistent in being consistent with everything  
18 they do, okay. I'm not going to waiver at this  
19 point in time for Lane Demuro or yourself.  
20 There's an issue that's outstanding right now as  
21 far as the stipulation agreement with respect to  
22 the Town Board with whom we work, whom we're  
23 appointed for. We're going to honor that and not  
24 act on it this evening.  
25 What I'm going to act on this evening

DRURY HEIGHTS

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2 is that we set this up for the consultants'  
3 meeting at the end of the month. At this point  
4 in time whatever is outstanding, whatever has to  
5 be agreed upon, whatever isn't agreed upon with  
6 the stipulation agreement can be discussed at the  
7 work session, the putting together of the  
8 resolution for preliminary approval could be  
9 discussed at that work session and then that will  
10 bring us into -- your work session is?

11 MR. GARLING: June 26th.

12 CHAIRMAN EWASUTYN: June 26th. So  
13 we'll do this under board business the meeting of  
14 July 5th. We'll act on this July 5th.

15 MS. ULLMAN: Can I address a few  
16 points, Mr. Chairman?

17 CHAIRMAN EWASUTYN: In a very short  
18 moment you can.

19 MS. ULLMAN: First, we have had our  
20 consultants' meeting.

21 CHAIRMAN EWASUTYN: You asked for --  
22 Brian came here last time and asked for the  
23 consultants' meeting because he wanted to get his  
24 things in order. We didn't deny him, we said by  
25 all means get yourself in order, and that was the

DRURY HEIGHTS

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purpose of it.

MS. ULLMAN: Let me also point out --

CHAIRMAN EWASUTYN: Jan, accept us for what we're agreeing on.

MR. BROOKER: I think it sounds fine.

CHAIRMAN EWASUTYN: I don't think we need to argue it any further.

MS. ULLMAN: There were some things I would like to just correct.

CHAIRMAN EWASUTYN: What do you want to correct?

MS. ULLMAN: I would like to say the stipulation has nothing to do with the stay.

CHAIRMAN EWASUTYN: The Town Board --

MS. ULLMAN: Are we still willing to enter a stipulation, Mr. Chairman?

CHAIRMAN EWASUTYN: That's --

MS. ULLMAN: It doesn't have to --

CHAIRMAN EWASUTYN: Jan, please. The Town Board has asked us not to act until we --

MS. ULLMAN: You don't work for them.

CHAIRMAN EWASUTYN: Jan, what is today's date?

MS. ULLMAN: Good question.

DRURY HEIGHTS

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CHAIRMAN EWASUTYN: It's the 7th of June. We're saying you'll be on the agenda for preliminary approval for July 5th.

MR. DEMURO: Do we need to request an extension today?

CHAIRMAN EWASUTYN: An extension of?

MR. DONNELLY: I think the issue was the sixty-two day time period from the hearing. We had been asking you to continue to extend that. If you wish to extend it to the July 5th meeting, we would certainly appreciate that concession.

CHAIRMAN EWASUTYN: Do you want to do that?

MR. DEMURO: Yes.

MR. BROOKER: That's what we will do. July 7th I have.

CHAIRMAN EWASUTYN: July 5th.

MR. BROOKER: July 5th happens to be a day I can't make the meeting but you don't mind if I don't come.

MS. ULLMAN: I probably won't be here either.

MR. DONNELLY: If the resolution has

DRURY HEIGHTS

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2 been prepared and there are no problems with it,  
3 and the Findings have been amended, and the  
4 consultants have reported everything is in order,  
5 it will be a fairly easy action for the Board to  
6 take that night. If there are glitches we can  
7 deal with that.

8 CHAIRMAN EWASUTYN: What's the date one  
9 more time?

10 MR. GARLING: June 26th. It's a  
11 Tuesday.

12 CHAIRMAN EWASUTYN: I'll move to set  
13 this up for a consultants' meeting on June 26th  
14 to discuss the resolution for preliminary  
15 approval for the Drury Heights 140-lot single-  
16 family subdivision with the understanding that  
17 the applicant is waiving the sixty-two day  
18 decision period.

19 MR. BROOKER: Yes.

20 MR. MENNERICH: So moved.

21 MR. O'DONNELL: Second.

22 CHAIRMAN EWASUTYN: I have a motion by  
23 Ken Mennerich. I have a second by Ed O'Donnell.  
24 Any discussion of the motion?

25 (No verbal response.)



DRURY HEIGHTS

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CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself.

Most important to us, we have never, we have never as a Board --

MS. ULLMAN: But you gave Exeter --

CHAIRMAN EWASUTYN: We have not. I'm sorry. I think the fact that we are a good working body, we just like to have everything in place.

MS. ULLMAN: I understand that, Mr. Chairman. The fact that Exeter -- it's very -- it's just very difficult.

CHAIRMAN EWASUTYN: We're not partial from one to the other. Lane has been here, we understand what Lane did, we understand the D.E.I.S., we understand the timing of it and I think, as one of our Board Members said early on with the public hearing with Driscoll, we do listen and we do hear.

DRURY HEIGHTS

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MR. BROOKER: Thank you.

(Time noted: 10:56 p.m.)

CERTIFICATION

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

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DATED: June 27, 2007

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

----- X

In the Matter of

NORTH PLANK ROAD DEVELOPMENT  
(2000-60)

Correction to May 17, 2007 memorandum  
Re: Landscape bond release in the amount of \$6,000

----- X

BOARD BUSINESS

Date: June 7, 2007  
Time: 10:57 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
EDWIN GARLING  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

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

NORTH PLANK ROAD DEVELOPMENT

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CHAIRMAN EWASUTYN: We just have a few items of Board business.

Karen, bring us along. We have to amend our landscape bond release. Bring us along on what happened.

MS. ARENT: Yes. I wrote the wrong project number on the North Plank Road Development project requesting the bond release. I have changed that project number to 2000-60 which is the one I had inspected and I thought I was recommending the release for. It was due to the fact that there's a lot of North Plank Development projects and it was -- the woman that works with me filed everything in the same file.

MR. DONNELLY: When the Board voted to release it they released it on the wrong action.

MS. ARENT: It needs to be corrected.

CHAIRMAN EWASUTYN: The motion is to approve the landscape bond release for North Plank Road Development, project number 2000-60, for the amount of \$6,000.

MS. ARENT: \$6,000.

MR. PROFACI: So moved.

MR. O'DONNELL: Second.

NORTH PLANK ROAD DEVELOPMENT

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CHAIRMAN EWASUTYN: I have a motion by  
Joe Profaci. I have a second by Ed O'Donnell.

Any discussion of the motion?

MR. BROWNE: Do we have to rescind?

CHAIRMAN EWASUTYN: I would say we do.

And to rescind the motion to release  
the landscape bond estimate for North Plank Road  
Development project number 2004-30.

MR. PROFACI: I move that motion.

MR. O'DONNELL: Me, too.

CHAIRMAN EWASUTYN: The motion was  
rescinded and remade by Joe Profaci, seconded by  
Ed O'Donnell. Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a  
roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

(Time noted: 10:58 p.m.)

CERTIFICATION

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

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

----- X

In the Matter of

PINNACLE SUBDIVISION  
(2003-62)

Excess soil

----- X

BOARD BUSINESS

Date: June 7, 2007  
Time: 10:59 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
EDWIN GARLING  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
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(845)895-3018

PINNACLE SUBDIVISION

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CHAIRMAN EWASUTYN: Sum and substance, Greg Shaw has provided us with a request that Pinnacle Subdivision would like to move approximately 8,520 cubic yards of topsoil from the property.

MR. HINES: I don't have a problem with it but I think we should condition it on the fact they need to assure they have adequate material to remain on the site to complete the site work on the plans.

MR. DONNELLY: Why is this in front of the Planning Board? Did this need a soil removal permit from us or from Jerry's office?

MS. ARENT: There's a note on the drawing for no removing of material.

MR. DONNELLY: They want an amended approval.

MR. HINES: They did the grading for the detention pond and there were several feet of what they're calling topsoil. They have a mountain of material. I think we should approval it and if they take too much they're going to be trucking it back in.

CHAIRMAN EWASUTYN: Do you want to give



PINNACLE SUBDIVISION

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us the verbiage for that? We'll move for a motion to what? Amend --  
MR. HINES: Amend the --  
CHAIRMAN EWASUTYN: -- the condition?  
MR. HINES: To allow them to remove material from the site but they need -- we need to be on notice or they need to assure that adequate material is retained on the site to perform --  
MS. ARENT: As per site plan.  
MR. HINES: -- perform the landscaping.  
MR. BROWNE: Adequate material or adequate topsoil?  
MR. HINES: We put X number of inches. It was six or eight. We told them how much to keep.  
MR. BROWNE: I would change the word from material to topsoil.  
MR. MENNERICH: They said four inches in their letter.  
MR. HINES: It may have been four inches, I'm not sure. I mean I've done conditions like that on mining permits. You take the excess material off but you have to assure

PINNACLE SUBDIVISION

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that you have adequate material. If you don't,  
you're trucking it back in.

CHAIRMAN EWASUTYN: Mike, when would  
you have an outline of this done to know what  
level of formality?

MR. DONNELLY: Do you want me to  
prepare an amended resolution and add this one  
that says the applicant shall be allowed to  
remove excess material provided they retain  
adequate topsoil to provide four inches of  
topsoil throughout the project after completion?

MR. HINES: Yeah.

MR. DONNELLY: I'll prepare a  
resolution like that for signature, that's a  
one-paragraph resolution, if you'd like and I'll  
send it along.

CHAIRMAN EWASUTYN: Please. As soon as  
possible, that way we could refer it to Greg Shaw  
and Mr. Kreisberg.

MR. DONNELLY: You'll vote on it  
tonight.

CHAIRMAN EWASUTYN: One more time the  
verbiage.

MR. DONNELLY: The first condition

PINNACLE SUBDIVISION

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which is we'll carry all the other resolution conditions. The second is the applicant shall be allowed to remove excess material from the site provided that they retain adequate topsoil to provide four inches of topsoil cover throughout the project upon completion of construction.

MR. HINES: All disturbed areas.

MR. DONNELLY: Four inches of topsoil to cover all disturbed areas.

MR. BROWNE: Is there a need to have a condition of inspection on that?

MR. HINES: We have that. We have inspection funds.

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: Having heard the conditions of approval for the amended resolution for the Pinnacle subdivision for removal of soil, I'll move for that motion.

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 verbal response.)

PINNACLE SUBDIVISION

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CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 11:03 p.m.)

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

----- X

In the Matter of

LANDS OF DZIEGELEWSKI  
(2005-55)

Extension of filing deadline

----- X

BOARD BUSINESS

Date: June 7, 2007  
Time: 11:03 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
EDWIN GARLING  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
10 Westview Drive  
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(845)895-3018

LANDS OF DZIEGELEWSKI

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CHAIRMAN EWASUTYN: We have two extensions and that will I think bring us along. We have Tom Purvis, the lands of Dziegelewski. I may even be signing those plans tomorrow. Anyway, he's asking for an extension of the filing deadline to January 11, 2007, which is another six months, which is all in accordance --

MR. DONNELLY: That was January 11, 2007. It was granted on -- let me see. The original approval was January 11, 2007.

CHAIRMAN EWASUTYN: Now actually he wants that carried through for six months which would have brought it through to February, March, April, May, June -- July 7th. I wonder why he's asking for this. So then we're going to be bringing it along through January 11, 2008?

MR. DONNELLY: Let me do the math.

MR. HINES: It only goes to June 11th.

MR. DONNELLY: You're allowed not more than 360 days. That would be January 7th, which would be the Monday, 2008.

CHAIRMAN EWASUTYN: I'll move for a motion to grant an extension of the final

LANDS OF DZIEGELEWSKI

1 231  
2 subdivision plans for the lands of Dziegelewski  
3 to January 5th did you say?  
4 MR. DONNELLY: January 7th.  
5 CHAIRMAN EWASUTYN: January 7, 2008.  
6 MR. PROFACI: So moved.  
7 MR. O'DONNELL: Second.  
8 CHAIRMAN EWASUTYN: I have a motion by  
9 Joe Profaci. I have a second by Ed O'Donnell.  
10 I'll ask for a roll call vote starting with Cliff  
11 Browne.  
12 MR. BROWNE: Aye.  
13 MR. MENNERICH: Aye.  
14 MR. O'DONNELL: Aye.  
15 MR. PROFACI: Aye.  
16 CHAIRMAN EWASUTYN: Myself yes. So  
17 carried.  
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19 (Time noted: 11:05 p.m.)  
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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

AUSTIN TYLER PROPERTIES, L.L.C.  
(2006-11)

Extension of final approval

----- X

BOARD BUSINESS

Date: June 7, 2007  
Time: 11:05 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
EDWARD T. O'DONNELL, JR.  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
EDWIN GARLING  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT

----- X

MICHELLE L. CONERO  
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CHAIRMAN EWASUTYN: The last item is Richard Shulken. He had final site plan approval, the maps were stamped and he never filed the maps within the sixty-two day timeframe. He's asking for an extension on that.

How do we extend that, Mike?

MR. DONNELLY: His problem was he satisfied all the conditions, you signed the plat and he didn't file it in time. I think he had -- I thought what I told him is he had to submit a new set of plats.

MR. HINES: Yes.

MR. DONNELLY: In other words, the approval was good for 180 days. He may need an extension because the approval was granted September 7, 2006. So we'll need an extension first of that but then he's going to have to submit a whole new set of plans.

MR. HINES: The County won't take them. Once they're stamped is it ninety days or sixty?

MR. DONNELLY: Sixty.

MR. HINES: They'll throw you right out.

AUSTIN TYLER PROPERTIES, L.L.C.

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CHAIRMAN EWASUTYN: We're granting him an extension?

MR. DONNELLY: His approval was September 7, '06. You could give him an extension until September 2, '07.

MR. HINES: Then you have to re-stamp them.

MR. DONNELLY: He has to represent plans.

CHAIRMAN EWASUTYN: September 2, 2007. He presents new plans for me to sign.

MR. DONNELLY: The same as the old ones. You have to re-sign them and he can take them to the Health Department.

CHAIRMAN EWASUTYN: I'll move for a motion to grant an extension of the Austin Tyler Properties, L.L.C. subdivision to September 2, 2007.

MR. MENNERICH: So moved.

MR. O'DONNELL: Second.

MR. BROWNE: Is there anything that has to be done as far as John signing them? He doesn't have to come back for anything, it's just --

AUSTIN TYLER PROPERTIES, L.L.C.

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MR. DONNELLY: Just have to have a valid approval in place and plans consistent for John to sign.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Ed O'Donnell. I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

I'll move for a motion to close the Planning Board meeting of June 7, 2007.

MR. O'DONNELL: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Ed O'Donnell. I have a second by Ken Mennerich. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

AUSTIN TYLER PROPERTIES, L.L.C.

237

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 11:08 p.m.)

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

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

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DATED: June 27, 2007

