

1 1  
2 STATE OF NEW YORK : COUNTY OF ORANGE  
3 TOWN OF NEWBURGH PLANNING BOARD  
4 ----- X  
5 In the Matter of

6 2015 REAPPOINTMENTS FOR THE PLANNING BOARD  
7  
8

9 ----- X  
10 BOARD BUSINESS

11 Date: January 8, 2015  
12 Time: 7:00 p.m.  
13 Place: Town of Newburgh  
14 Town Hall  
15 1496 Route 300  
16 Newburgh, NY 12550

17 BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
18 CLIFFORD C. BROWNE  
19 KENNETH MENNERICH  
20 JOSEPH E. PROFACI  
21 DAVID DOMINICK  
22 JOHN A. WARD

23 ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
24 PATRICK HINES  
25 GERALD CANFIELD  
MICHAEL MUSSO

26 ----- X  
27 MICHELLE L. CONERO  
28 10 Westview Drive  
29 Wallkill, New York 12589  
30 (845)895-3018

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1 3

2 Hauser & Edsall Consulting Engineers.

3 MR. MUSSO: Mike Musso with HDR,  
4 Wireless Telecommunications Consultant.

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

7 MR. WARD: Please stand to say the  
8 Pledge.

9 (Pledge of Allegiance.)

10 MR. WARD: Please turn off your phones  
11 or on vibrate. Thank you.

12 MR. PROFACI: Prior to us starting with  
13 tonight's agenda we have several items for the  
14 2015 Planning Board reorganization.

15 First is to reappoint our consultants.

16 I'll ask for a motion first to reappoint  
17 Kenneth A. Mennerich as Vice Chairman of the  
18 Planning Board.

19 CHAIRMAN EWASUTYN: I'll move for that  
20 motion.

21 MR. WARD: Second.

22 CHAIRMAN EWASUTYN: I have a motion by  
23 John Ewasutyn, I have a second by John Ward. Any  
24 discussion of the motion?

25 (No response.)

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1 2

2 MR. PROFACI: Good evening, ladies and  
3 gentlemen. Welcome to the Town of Newburgh  
4 Planning Board meeting of January 8, 2015.

5 At this time I'll ask for a roll call  
6 starting with Cliff Browne.

7 MR. BROWNE: Present.

8 MR. MENNERICH: Present.

9 CHAIRMAN EWASUTYN: Present.

10 MR. PROFACI: Here.

11 MR. DOMINICK: Present.

12 MR. WARD: Present.

13 MR. PROFACI: The Planning Board  
14 employs various consultants to advise the Board  
15 on matters of importance, including State  
16 Environmental Quality Review Act, otherwise known  
17 as SEQRA, issues. I ask them to introduce  
18 themselves at this time.

19 MR. DONNELLY: Michael Donnelly,  
20 Planning Board Attorney.

21 MS. CONERO: Michelle Conero,  
22 Stenographer.

23 MR. CANFIELD: Jerry Canfield, Code  
24 Compliance Supervisor, Town of Newburgh.

25 MR. HINES: Pat Hines with McGoey,

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1 4

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

4 MR. BROWNE: Aye.

5 MR. MENNERICH: Aye.

6 MR. PROFACI: Aye.

7 MR. DOMINICK: Aye.

8 MR. WARD: Aye.

9 CHAIRMAN EWASUTYN: Myself. Motion  
10 carried.

11 MR. PROFACI: Next is for Michael  
12 Donnelly, Attorney to the Planning Board.

13 MR. DOMINICK: I'll make the motion.

14 CHAIRMAN EWASUTYN: I have a motion by  
15 Dave Dominick.

16 MR. WARD: Second.

17 CHAIRMAN EWASUTYN: Do I have a second?

18 MR. WARD: Second.

19 CHAIRMAN EWASUTYN: A second by John  
20 Ward. Any discussion of the motion?

21 (No 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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1 5  
 2 MR. PROFACI: Aye.  
 3 MR. DOMINICK: Aye.  
 4 MR. WARD: Aye.  
 5 CHAIRMAN EWASUTYN: Aye. Motion  
 6 carried.  
 7 MR. PROFACI: Next is McGoey, Hauser &  
 8 Edsall, Patrick Hines as the representative,  
 9 Engineers and Planners to the Planning Board.  
 10 CHAIRMAN EWASUTYN: I'll make a motion.  
 11 MR. MENNERICH: Second.  
 12 CHAIRMAN EWASUTYN: A motion by John  
 13 Ewasutyn, a second by Ken Mennerich. Any  
 14 discussion of the motion?  
 15 (No response.)  
 16 CHAIRMAN EWASUTYN: I'll move for a  
 17 roll call vote starting with Cliff Browne.  
 18 MR. BROWNE: Aye.  
 19 MR. MENNERICH: Aye.  
 20 MR. PROFACI: Aye.  
 21 MR. DOMINICK: Aye.  
 22 MR. WARD: Aye.  
 23 CHAIRMAN EWASUTYN: Aye. Motion  
 24 carried.  
 25 MR. PROFACI: The next will be tabled  
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1 6  
 2 for Karen Arent as Landscape Architect to the  
 3 Planning Board.  
 4 Next is Kenneth Wersted, PE, Traffic  
 5 Engineer to the Planning Board.  
 6 MR. MENNERICH: I'll make that motion.  
 7 CHAIRMAN EWASUTYN: I'll second that  
 8 motion.  
 9 Any discussion of the motion?  
 10 (No response.)  
 11 CHAIRMAN EWASUTYN: I'll ask for a roll  
 12 call vote starting with John Ward.  
 13 MR. WARD: Aye.  
 14 MR. DOMINICK: Aye.  
 15 MR. PROFACI: Aye.  
 16 MR. MENNERICH: Aye.  
 17 MR. BROWNE: Aye.  
 18 CHAIRMAN EWASUTYN: Aye. Motion  
 19 carried.  
 20 MR. PROFACI: Also tabled will be  
 21 Michael Musso, PE, our Telecommunications  
 22 Consultant.  
 23 And finally, Michelle Conero as  
 24 Stenographer to the Planning Board.  
 25 CHAIRMAN EWASUTYN: I'll make that  
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1 7  
 2 motion.  
 3 MR. WARD: Second.  
 4 CHAIRMAN EWASUTYN: Motion by John  
 5 Ewasutyn, second by John Ward. Any discussion of  
 6 the motion?  
 7 (No response.)  
 8 CHAIRMAN EWASUTYN: I'll move for a  
 9 roll call vote starting with Cliff Browne.  
 10 MR. BROWNE: Aye.  
 11 MR. MENNERICH: Aye.  
 12 MR. PROFACI: Aye.  
 13 MR. DOMINICK: Aye.  
 14 MR. WARD: Aye.  
 15 CHAIRMAN EWASUTYN: Aye. Motion  
 16 carried.  
 17 MR. PROFACI: Thank you. I'll also ask  
 18 for a motion to adopt the Planning Board meeting  
 19 dates for 2015.  
 20 MR. DOMINICK: I'll make a motion.  
 21 CHAIRMAN EWASUTYN: I'll second that  
 22 motion.  
 23 I have a motion by Dave Dominick, I  
 24 have a second by John Ewasutyn. Any discussion  
 25 of the motion?  
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1 8  
 2 MR. BROWNE: Yes. Those dates should  
 3 be referred to on the publication that was put in  
 4 that we all have and is available online.  
 5 CHAIRMAN EWASUTYN: Okay. Thank you.  
 6 Discussion by Cliff Browne, I have a motion by  
 7 Dave Dominick, a second by John Ewasutyn. Any  
 8 further discussion?  
 9 (No response.)  
 10 CHAIRMAN EWASUTYN: I'll move for a  
 11 roll call vote starting with Cliff Browne.  
 12 MR. BROWNE: Aye.  
 13 MR. MENNERICH: Aye.  
 14 MR. PROFACI: Aye.  
 15 MR. DOMINICK: Aye.  
 16 MR. WARD: Aye.  
 17 CHAIRMAN EWASUTYN: Aye. Motion  
 18 carried.  
 19 MR. PROFACI: Finally I'll ask for a  
 20 motion to adopt the Planning Board Consultants'  
 21 work session meetings for 2015.  
 22 MR. WARD: So moved.  
 23 MR. MENNERICH: Second.  
 24 CHAIRMAN EWASUTYN: I have a motion by  
 25 John Ward, a second by Ken Mennerich. Any  
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1 9  
 2 discussion of the motion?  
 3 MR. BROWNE: Yes. The same comment as  
 4 previous.  
 5 CHAIRMAN EWASUTYN: Okay. Discussion  
 6 by Cliff Browne, I have a motion by John Ward, I  
 7 have a second by Ken Mennerich. Any further  
 8 discussion?  
 9 (No response.)  
 10 CHAIRMAN EWASUTYN: I'll move for a  
 11 roll call vote starting with Cliff Browne.  
 12 MR. BROWNE: Aye.  
 13 MR. MENNERICH: Aye.  
 14 MR. PROFACI: Aye.  
 15 MR. DOMINICK: Aye.  
 16 MR. WARD: Aye.  
 17 CHAIRMAN EWASUTYN: Myself. So  
 18 carried.  
 19 And for those sitting in the audience  
 20 tonight, we tabled Karen Arent and Mike Musso.  
 21 We're just waiting for some additional  
 22 confirmation information. So that will be set  
 23 for the meeting of the 15th of this month.  
 24 Thank you all.  
 25 (Time noted: 7:08 p.m.)  
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1 10  
 2  
 3 C E R T I F I C A T I O N  
 4  
 5 I, Michelle Conero, a Shorthand  
 6 Reporter and Notary Public within and for  
 7 the State of New York, do hereby certify  
 8 that I recorded stenographically the  
 9 proceedings herein at the time and place  
 10 noted in the heading hereof, and that the  
 11 foregoing is an accurate and complete  
 12 transcript of same to the best of my  
 13 knowledge and belief.  
 14  
 15 -----  
 16  
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 22  
 23 DATED: January 23, 2015  
 24  
 25  
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1 11  
 2 STATE OF NEW YORK : COUNTY OF ORANGE  
 3 TOWN OF NEWBURGH PLANNING BOARD  
 4 ----- X  
 5 In the Matter of  
 6  
 7 SPRINT NEXTEL  
 8 (2014-28)  
 9 39 North Plank Road (Mid-Valley Mall)  
 10 Section 75; Block 1; Lot 11  
 11 B Zone  
 12 ----- X  
 13 PUBLIC HEARING  
 14 WIRELESS TOWER UPGRADE  
 15 Date: January 8, 2015  
 16 Time: 7:08 p.m.  
 17 Place: Town of Newburgh  
 18 Town Hall  
 19 1496 Route 300  
 20 Newburgh, NY 12550  
 21 BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
 22 CLIFFORD C. BROWNE  
 23 KENNETH MENNERICH  
 24 JOSEPH E. PROFACI  
 25 DAVID DOMINICK  
 JOHN A. WARD  
 ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
 PATRICK HINES  
 GERALD CANFIELD  
 MICHAEL MUSSO  
 APPLICANT'S REPRESENTATIVE: DOUGLAS WARDEN  
 ----- X  
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 Wallkill, New York 12589  
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1 12  
 2 MR. PROFACI: All items on tonight's  
 3 agenda are public hearings.  
 4 At this time I'll ask Attorney Michael  
 5 Donnelly to explain the purpose of a public  
 6 hearing.  
 7 MR. DONNELLY: None of the applications  
 8 before the Board are new here but this is the  
 9 first opportunity where the Board wishes to hear  
 10 from you, the members of the public, to see if  
 11 you have any concerns or issues that have not  
 12 been discovered by the Planning Board Members or  
 13 have not been brought to the attention of those  
 14 Members by the consultant team. After the  
 15 applicant -- in each matter, after the applicant  
 16 gives his presentation, the Chairman will ask  
 17 those members of the public who wish to speak to  
 18 indicate that by raising your hand. We would ask  
 19 you to come forward so you can be heard more  
 20 easily by the Board. We'll ask you to tell us  
 21 your name, give the spelling to our Stenographer  
 22 if you would, and tell us where you live in  
 23 relation to the project so the Board can better  
 24 under your perspective on the matter. If you  
 25 have questions, please place them to the Board.  
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1 13  
2 If they can be easily answered the Chairman will  
3 ask either the applicant's representative or one  
4 of the Town's Consultants to answer those  
5 questions.  
6 MR. PROFACI: Thank you, Mike.  
7 The first item on tonight's agenda is  
8 Sprint Nextel, project 2014-28, located at 39  
9 North Plank Road in the Mid-Valley Mall,  
10 Section 75, Block 1, Lot 11, located in the B  
11 Zone. It is a public hearing for a wireless  
12 tower upgrade and being represented by Doug  
13 Warden.  
14 I'll ask Ken Mennerich to read the  
15 notice of hearing.  
16 MR. MENNERICH: "Notice of hearing,  
17 Town of Newburgh Planning Board. Please take  
18 notice that the Planning Board of the Town of  
19 Newburgh, Orange County, New York will hold a  
20 public hearing pursuant to the Municipal Code of  
21 the Town of Newburgh, Chapter 185-57, Section K,  
22 and Chapter 168-16, Section A, on the application  
23 of Sprint Nextel, Mid-Valley Mall, project  
24 2014-28, for a site plan/special use permit for  
25 the technology upgrade antenna modifications on  
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1 14  
2 the side of the water tower on the Mid-Valley  
3 Mall site on premises 39 North Plank Road, water  
4 tank in the Town of Newburgh, designated on Town  
5 tax map as Section 75, Block 1, Lot 11. The  
6 project is located in the B Zone. Said hearing  
7 will be held on the 8th day of January 2015 at  
8 the Town Hall Meeting Room, 1496 Route 300,  
9 Newburgh, New York at 7 p.m. at which time all  
10 interested persons will be given an opportunity  
11 to be heard. By order of the Town of Newburgh  
12 Planning Board. John P. Ewasutyn, Chairman,  
13 Planning Board Town of Newburgh. Dated  
14 December 9, 2014."  
15 MR. PROFACI: Thank you.  
16 Doug.  
17 MR. WARDEN: Good evening, Mr.  
18 Chairman, Members of the Board. Shall I --  
19 CHAIRMAN EWASUTYN: Please.  
20 MR. WARDEN: -- commence with the  
21 presentation of what we're proposing?  
22 I'm Doug Warden, I'm an Attorney with  
23 the law firm of Snyder & Snyder. I'm here  
24 tonight on behalf of Sprint. Sprint is here this  
25 evening to seek approval -- seek authorization  
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1 15  
2 for the modification of the existing wireless  
3 telecommunications facility. That facility is  
4 located on the existing water tank located at  
5 39 Plank Road.  
6 The water tank is 132 feet above ground  
7 level and the facility is located on top of that  
8 water tank.  
9 The facility was approved in 2007. As  
10 presently configured, it consists of four  
11 antennas with related equipment in the form of  
12 small remote radio head units behind them located  
13 on the antenna support structure on the tower.  
14 The facility as presently configured  
15 also involves -- there are three small equipment  
16 cabinets approximately the size and shape of  
17 small refrigerators that are located in an  
18 equipment compound at the base of the tower.  
19 The modification that we're proposing  
20 is as follows: To Add three antennas to the  
21 antenna support structure on the tower. Those  
22 antennas are of comparable size to the existing  
23 antennas and, just like the existing antennas,  
24 will have small related equipment in the form of  
25 remote radio head units mounted behind them. The  
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1 16  
2 modification also involves the location of an  
3 additional small equipment cabinet, also the size  
4 of a small refrigerator, within the existing  
5 equipment compound. The existing equipment  
6 compound will not need to be expanded in any way.  
7 The application does not involve any increase in  
8 the height or profile of the tower.  
9 The application will -- the modified  
10 facility will continue to comply in all respects  
11 with the applicable FCC regulations regarding  
12 radiofrequency emissions, and it will continue to  
13 comply in all regards with the applicable  
14 structural requirements.  
15 Therefore we are here to respectfully  
16 request that this application be granted.  
17 CHAIRMAN EWASUTYN: Thank you, Doug.  
18 Is there anyone here this evening that  
19 has any questions or comments for Mr. Warden as  
20 he presented?  
21 (No response.)  
22 CHAIRMAN EWASUTYN: Let the record show  
23 that there was no one in the audience this  
24 evening who had any questions or comments.  
25 At this time I'd like to turn to Mike  
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1 17  
2 Musso with HDR Engineering who represents the  
3 Planning Board and the Town.  
4 Michael.  
5 MR. MUSSO: Members of the Board, Mr.  
6 Chairman and members of the public, thanks for  
7 having me here. HDR, on behalf of the Town, has  
8 performed a technical review of the upgrade  
9 application.  
10 I just want to give maybe a couple of  
11 additional highlights to the Board. We did  
12 review the application that came in in November.  
13 The Mid-Valley Mall water tank has been  
14 accommodating a Sprint Nextel one carrier now  
15 facility since about 2006, 2007. This is the  
16 second proposed upgrade by that carrier. There  
17 was an upgrade that was approved by this Board,  
18 reviewed by HDR, in 2012 where the technology was  
19 changed with some of the older antennas, and  
20 smaller remote radio head equipment was also  
21 installed.  
22 The application here that's at hand is  
23 for yet another technology upgrade. We're seeing  
24 this among all carriers that service this region,  
25 including Sprint in this case. The applicant is  
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1 18  
2 looking to install three additional panel  
3 antennas all on the very top of the 132 foot tall  
4 water tank.  
5 As far as visual impacts, there is no  
6 increase to the height of this antenna. There's  
7 no special lighting that would be required and  
8 none is being proposed. They are going to be  
9 utilizing the existing frame that's at the very  
10 top of the antenna. It's really out of sight  
11 unless you're parked on a certain portion of the  
12 Mid-Valley Mall.  
13 On the ground at the foot of that water  
14 tank there are equipment compounds, not only for  
15 Sprint but there's equipment that services the  
16 antennas of T-Mobil, AT&T and Verizon who also  
17 utilize that structure for their panel antennas.  
18 The upgrade that we're hearing about  
19 tonight, Sprint has been allocated an additional  
20 frequency band to roll out more wireless services  
21 to its consumers, so not only voice and data but  
22 expanded data. That's something that we're  
23 familiar with in our personal lives but also  
24 seeing from these upgrade applications over the  
25 years.  
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1 19  
2 No substantial change in visual to the  
3 site itself in my opinion, or to the panel  
4 antennas at the top of the water tank.  
5 We looked at the structural evaluation.  
6 We feel that that was adequate and complete.  
7 Four additional -- three additional antennas will  
8 present an increase in wind load to the  
9 structure. We feel that that -- the structural  
10 analysis checks out fine and that the design and  
11 the assumptions were accurate.  
12 We also looked at radiofrequency  
13 emissions. The new equipment that's proposed  
14 along with the existing equipment will not pose  
15 something that's out of compliance or any kind of  
16 a risk to the health and safety of the general  
17 public. Those numbers check out as well as  
18 expected with this type of facility. So the  
19 general public areas look to be okay. So  
20 aesthetics, structural, radiofrequency emissions.  
21 We have just a couple of  
22 recommendations at the end of our tech memo which  
23 was issued early this week. They're pretty  
24 common from what we've recommended before at this  
25 site with other reviews, and we recommend that  
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1 20  
2 should the application be approved, that these be  
3 considered as conditions for building approval.  
4 One is the security fencing and signage  
5 at the base of the water tank. Right now the  
6 compounds that were described by the applicant  
7 rep and also the compound of the other carriers  
8 are secured and fenced with signage. That of  
9 course should be inspected and monitored so that  
10 the fencing -- security fencing and the signage  
11 is intact.  
12 We also recommend that the proposed  
13 equipment, the three additional antennas and  
14 three additional remote radio head units and the  
15 cables that would run from the ground to the top  
16 of the water tank, be color matched to match the  
17 existing water tank structure. That's been a  
18 condition for all the other wireless carriers, so  
19 we feel that that would be aesthetic consistency.  
20 We also have a recommendation for a  
21 structural analysis should the water tower  
22 structure itself be put back in service.  
23 Another recommendation about persons  
24 not trained in radiofrequency who may access the  
25 water tank at some time, that there's a protocol  
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1 21  
2 in place with the property owner, and that should  
3 be ensured by the applicant as well should this  
4 application be approved.  
5 And then just last, it's a reminder  
6 that there is a wireless code here in the Town of  
7 Newburgh that has many conditions about  
8 operations. So if there are any modifications  
9 beyond what's being proposed, that Sprint should  
10 go through -- has to go through all the proper  
11 channels with the Town.  
12 I think that winds up the conclusions  
13 of our report.  
14 CHAIRMAN EWASUTYN: Thank you.  
15 Jerry Canfield, Code Compliance  
16 Officer, do you have any additions?  
17 MR. CANFIELD: We talked at the work  
18 session briefly about the condition of the  
19 existing water tank. Knowing that it's owned by  
20 someone other than the Mid-Valley Mall, DLC  
21 Management I believe is the management company, I  
22 believe Mike Musso is going to be speaking in the  
23 future about painting that tower or kind of  
24 cleaning it up somewhat. We talked about it.  
25 Just at this point I guess we're  
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1 22  
2 interested to see if you have any input on that  
3 or if there's been any conversation regarding  
4 that?  
5 MR. WARDEN: We've reached out to DLC  
6 and we have conveyed the Board's interest in  
7 seeing the tank painted soon. DLC has indicated  
8 that they do not have plans -- they've done a  
9 review and they don't have plans to paint it in  
10 2015. I can't -- I didn't receive any  
11 information regarding 2016 thereafter. So that's  
12 the extent of what I've been able to glean.  
13 MR. CANFIELD: Thank you.  
14 CHAIRMAN EWASUTYN: Pat Hines, Planning  
15 Consultant?  
16 MR. HINES: We have no outstanding  
17 comments.  
18 There's a procedural issue, it needs to  
19 be referred to Orange County Planning because of  
20 the proximity to the two State highways in the  
21 area. That has not been done yet. We did  
22 receive a complete packet tonight which we will  
23 forward tomorrow to Orange County Planning.  
24 With that being an outstanding issue,  
25 approvals can't be granted tonight. I would  
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1 23  
2 suggest that the application is well along and it  
3 could be scheduled as a Board Business item when  
4 the County Planning referral is received back.  
5 CHAIRMAN EWASUTYN: Mike Donnelly,  
6 Planning Board Attorney?  
7 MR. DONNELLY: I agree with Pat. I do  
8 have a resolution that incorporates the  
9 recommendations of Mike as conditions to the  
10 approval. I'll have a copy for you finalized  
11 when you have it as a Board Business agenda item,  
12 and you can act on it at that time.  
13 I don't know if we took SEQRA action  
14 yet, whether lead agency or negative declaration.  
15 I don't recall. If we have not, it would be an  
16 appropriate time to do it.  
17 CHAIRMAN EWASUTYN: Mike Musso, do you  
18 recall if we made a SEQRA determination?  
19 MR. MUSSO: I don't believe that one  
20 was made.  
21 CHAIRMAN EWASUTYN: No harm in doing it  
22 one more time.  
23 Any additional questions or comments  
24 from the public before we close the hearing this  
25 evening on the Sprint Nextel application?  
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1 24  
2 (No response.)  
3 CHAIRMAN EWASUTYN: Okay. I'll move  
4 from the Board to close the public hearing on the  
5 Sprint Nextel application, 2014-28.  
6 MR. MENNERICH: So moved.  
7 MR. PROFACI: Second.  
8 CHAIRMAN EWASUTYN: I have a motion by  
9 Ken Mennerich. I have a second by Joe Profaci.  
10 Any discussion of the motion?  
11 (No response.)  
12 CHAIRMAN EWASUTYN: I'll move for a  
13 roll call vote starting with Cliff Browne.  
14 MR. BROWNE: Aye.  
15 MR. MENNERICH: Aye.  
16 MR. PROFACI: Aye.  
17 MR. DOMINICK: Aye.  
18 MR. WARD: Aye.  
19 CHAIRMAN EWASUTYN: And myself yes. So  
20 carried.  
21 Again I'll ask for a motion to close  
22 the public hearing on the Sprint Nextel Wireless  
23 tower -- excuse me, declare a negative  
24 declaration. I apologize.  
25 MR. DOMINICK: I'll make a motion.  
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1 25

2 MR. WARD: Second.

3 CHAIRMAN EWASUTYN: I have a motion by

4 Dave Dominick, a second by John Ward. Any

5 discussion of the motion?

6 (No response.)

7 CHAIRMAN EWASUTYN: I'll move for a

8 roll call vote starting with Cliff Browne.

9 MR. BROWNE: Aye.

10 MR. MENNERICH: Aye.

11 MR. PROFACI: Aye.

12 MR. DOMINICK: Aye.

13 MR. WARD: Aye.

14 CHAIRMAN EWASUTYN: Myself. So

15 carried.

16 Doug, we'll put it under Board Business

17 once we receive comments from the Orange County

18 Planning Department and we'll notify you.

19 MR. WARDEN: Okay. Do you know -- does

20 the Board know which agenda it might be on next

21 or is that a matter of waiting to hear from the

22 County Planning Board?

23 MR. HINES: Our next meeting, because

24 this one was scheduled because of the holidays,

25 is next week, the 15th. It would be most likely

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1 26

2 the first Thursday in February.

3 MR. WARDEN: So you'll confirm that

4 with us?

5 MR. HINES: As soon as I get that back

6 I'll send it to -- is it Cara from your office?

7 MR. WARDEN: Yes.

8 MR. MENNERICH: It's not necessary for

9 you to attend that meeting.

10 MR. WARDEN: Okay.

11 CHAIRMAN EWASUTYN: That would be --

12 the first meeting in February would be the 5th,

13 and then the one thereafter would be the 19th.

14 MR. WARDEN: The Board would vote on it

15 at that time? All right.

16 Any other questions I can answer for

17 the Board?

18 CHAIRMAN EWASUTYN: Not at this time.

19 Thank you.

20 MR. WARDEN: Thank you all very much

21 for your time.

22

23 (Time noted: 7:20 p.m.)

24

25

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1 27

2

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

4

5

6

7 I, Michelle Conero, a Shorthand

8 Reporter and Notary Public within and for

9 the State of New York, do hereby certify

10 that I recorded stenographically the

11 proceedings herein at the time and place

12 noted in the heading hereof, and that the

13 foregoing is an accurate and complete

14 transcript of same to the best of my

15 knowledge and belief.

16

17

18

19 -----

20

21

22

23 DATED: January 23, 2015

24

25

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1 28

2 STATE OF NEW YORK : COUNTY OF ORANGE

3 TOWN OF NEWBURGH PLANNING BOARD

4 ----- X

5 In the Matter of

6

7 PETRICK TIMBER HARVEST

8 (2014-29)

9 128 North Fostertown Road

10 Section 17; Block 2; Lot 68

11 AR Zone

12 ----- X

13

14 PUBLIC HEARING

15 TIMBER HARVEST

16 Date: January 8, 2015

17 Time: 7:20 p.m.

18 Place: Town of Newburgh

19 Town Hall

20 1496 Route 300

21 Newburgh, NY 12550

22

23 BOARD MEMBERS: JOHN P. EWASUTYN, Chairman

24 CLIFFORD C. BROWNE

25 KENNETH MENNERICH

JOSEPH E. PROFACI

DAVID DOMINICK

JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.

PATRICK HINES

GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: CHRISTOPHER PRENTIS

----- X

MICHELLE L. CONERO

10 Westview Drive

Wallkill, New York 12589

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1 29  
2 MR. PROFACI: The next item on  
3 tonight's agenda is the Petrick Timber Harvest,  
4 project 2014-29, located at 178 North Fostertown  
5 Road, Section 17, Block 2, Lot 68. It's located  
6 in the AR Zone. It's also a public hearing on a  
7 timber harvest. It's being represented by Chris  
8 Prentis.  
9 MR. MENNERICH: "Notice of hearing,  
10 Town of Newburgh Planning Board. Please take  
11 notice that the Planning Board of the Town of  
12 Newburgh, Orange County, New York will hold a  
13 public hearing pursuant to the Municipal Code of  
14 the Town of Newburgh, Chapter 83-8, Section E, on  
15 behalf of Petrick Timber Harvest, project  
16 2014-29, for selective harvesting of timber. The  
17 project site is located at 178 North Fostertown  
18 Road, designated on Town tax maps as Section 17,  
19 Block 2, Lot 68. The applicant has applied for a  
20 selective timber harvest of 20 acres of a 34 plus  
21 or minus acre parcel. The timber harvest will  
22 remove approximately 235 trees or 12 trees per  
23 acre. Said hearing will be held on the 8th day  
24 of January 2015 at the Town Hall Meeting Room,  
25 1496 Route 300, Newburgh, New York at 7 p.m. at  
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1 30  
2 which time all interested persons will be given  
3 an opportunity to be heard regarding the proposed  
4 timber harvest. By order of the Town of Newburgh  
5 Planning Board. John P. Ewasutyn, Chairman,  
6 Planning Board Town of Newburgh. Dated  
7 December 9, 2014."  
8 MR. PRENTIS: Good evening. I'm  
9 Christopher Prentis, Lower Hudson Forestry. I'm  
10 representing Margaret Petrick for a timber  
11 harvest.  
12 A correction. It's actually 128 North  
13 Fostertown Road, not 178. I just wanted to make  
14 that clear.  
15 This is a proposed 20 acre timber  
16 harvest on a 34.1 acre parcel designated on tax  
17 map as 17-2-68. 235 trees marked with purple  
18 paint are to be removed, which is approximately  
19 12 trees per acre.  
20 The tops will all be lopped down to a  
21 level of about three feet or lower to speed up  
22 the decomposition process.  
23 Skid trails will all be cleaned and  
24 graded.  
25 Erosion control devices will be put in  
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1 31  
2 place to prevent erosion from occurring in the  
3 future.  
4 The landing area for the logs will be  
5 located off of a gravel driveway that's on the  
6 property that's approximately 900 feet off of  
7 North Fostertown Road. That landing area will  
8 also be cleaned and graded at completion of the  
9 job.  
10 CHAIRMAN EWASUTYN: Thank you, Chris.  
11 Again, if there's anyone here this  
12 evening that has any questions or comments for  
13 Chris, please raise your hand and give your name  
14 and your address.  
15 MR. CANOSA: Joseph Canosa, 160 North  
16 Fostertown Drive.  
17 CHAIRMAN EWASUTYN: Thank you.  
18 MR. CANOSA: Could you show me exactly  
19 on the map where this -- these trees will be cut  
20 down?  
21 MR. PRENTIS: Generally the eastern  
22 half of the parcel. Here's North Fostertown  
23 Road, here's Timber Ridge Road. It's in the  
24 eastern half of the parcel.  
25 MR. CANOSA: And this would be the  
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1 32  
2 entrance here?  
3 MR. PRENTIS: Correct. That's the  
4 gravel driveway. There's a house sitting here.  
5 MR. CANOSA: And this is the area where  
6 the trees will be cut?  
7 MR. PRENTIS: Yes, sir.  
8 MR. CANOSA: Do you need that?  
9 MR. PRENTIS: You may keep it.  
10 MR. CANOSA: Thank you.  
11 MR. PRENTIS: Did you want to look? I  
12 don't have any other copies.  
13 MS. CARUVIA: Can you just explain to  
14 us like you just explained to him?  
15 MR. PRENTIS: This is the gravel  
16 driveway where the L is. This is the landing  
17 area which is adjacent to the house that's back  
18 there. The eastern half of the parcel --  
19 MS. CARUVIA: This is the property that  
20 butts up against --  
21 MR. DONNELLY: Can you keep your voices  
22 up?  
23 MS. CARUVIA: We're just asking him to  
24 explain the property.  
25 CHAIRMAN EWASUTYN: Would one of you at  
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1 33  
2 least give your name and your address?  
3 MS. CARUVIA: It's Margaret Caruvia  
4 C-A-R-U-V-I-A and it's 4 Elena Lane.  
5 What we're concerned about is the back  
6 part of the property.  
7 MR. PRENTIS: The back part of the  
8 property. I'm sure you've seen there's six  
9 different colors out there right now. There's  
10 red, there's green, blue, orange. The trees are  
11 marked in purple paint.  
12 There was a buffer put on the property  
13 lines so there's no trees marked right up to the  
14 property line, at least in the purple paint. The  
15 purple paint is what's to be harvested. Don't  
16 pay attention to the other colors. Those were  
17 all there before I showed up.  
18 MS. CARUVIA: This won't be affected?  
19 MR. PRENTIS: Correct. I believe you  
20 can download all of this off the Town's website.  
21 MR. HINES: Yes. That information is  
22 on the Town's website under the Planning Board  
23 under this project name. All the information  
24 that was submitted is available on that website.  
25 MR. PRENTIS: So you'll have the maps  
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1 34  
2 and everything like that if you wanted to take a  
3 look. My address and phone number is at the top  
4 of the page if you have any questions.  
5 MS. CARUVIA: Has this property been  
6 timbered before?  
7 MR. PRENTIS: The property has been  
8 logged before. It's been at least twenty years,  
9 so it's been quite awhile.  
10 MR. CANOSA: Who is the current owner  
11 of this property?  
12 MR. PRENTIS: It's in a trust, and the  
13 trustee is Margaret Petrick. I believe they live  
14 in Wappingers.  
15 CHAIRMAN EWASUTYN: Additional  
16 questions or comments from the public?  
17 (No response.)  
18 CHAIRMAN EWASUTYN: At this point I'll  
19 turn the meeting over to Jerry Canfield, Code  
20 Compliance. Jerry will explain the procedure for  
21 clearing, grading and logging. Jerry.  
22 MR. CANFIELD: The Town of Newburgh has  
23 a Clearing and Grading Ordinance which is in our  
24 Municipal Code, Chapter 83. Should the Board  
25 choose to approve this application, and I'm sure  
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1 35  
2 Mike will go through as well, all the provisions  
3 of that chapter will apply as far as the hours of  
4 operation and what have you.  
5 There's also an inspection fee that  
6 would be required to be collected of \$1,000, and  
7 that will go for the Town's consultant, who also  
8 is a forester, that inspects the site during all  
9 of the operation, prior, during and after, to  
10 assure that the site has been cared for as the  
11 applicant proposes.  
12 I don't have anything else.  
13 CHAIRMAN EWASUTYN: Pat Hines, Planning  
14 Consultant?  
15 MR. HINES: In addition to those -- my  
16 comments contain what Mr. Canfield just said. In  
17 addition, the highway superintendent is going to  
18 have to review the access road. It is an  
19 existing drive. That should not be an issue. The  
20 Town requires bonding in case there's damage to  
21 the roadway by the logging vehicles. Typically  
22 that's \$5,000 security which is released upon  
23 completion of the project as long as there's no  
24 damage. Those should be conditions of approval.  
25 CHAIRMAN EWASUTYN: Mike Donnelly,  
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1 36  
2 Planning Board Attorney, are you prepared to  
3 discuss this with us this evening?  
4 MR. DONNELLY: I'll outline the  
5 conditions in a moment. You will have to issue a  
6 declaration of significance under SEQRA before  
7 you act.  
8 The conditions will be, as Pat began to  
9 outline, a sign off from the highway  
10 superintendent. We will carry forth the  
11 provisions of Chapter 83 as conditions,  
12 particularly the standards for granting a permit  
13 in Section 83-10, and the specific requirements,  
14 A, B and C of 83-11. That limits the site  
15 preparation activities to the hours of 7:30 to  
16 6:00 p.m. when work is done within 1,500 feet of  
17 any residence. No site preparation activity  
18 shall be conducted on Sundays or public holidays.  
19 The applicant shall be required to post  
20 appropriate warning signs before any work under  
21 the permit may begin. The permit is good for a  
22 period of one year.  
23 As noted, you'll have to file a  
24 performance guarantee in the amount of \$5,000 and  
25 an inspection fee in the amount of \$1,000.  
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1 37  
 2 CHAIRMAN EWASUTYN: The lady in the  
 3 back.  
 4 MS. JEWITT: Leanne Jewitt, it's Timber  
 5 Ridge Road. What recourse, if any, does the Town  
 6 have should, after the completion of this project  
 7 in a couple years or so, erosion gets to be a  
 8 problem? This property is hilly. Part of it is  
 9 rather hilly. I know they are going to try and  
 10 put in erosion controls. What if they don't  
 11 work? Is there any recourse on the part of the  
 12 Town?  
 13 MR. DONNELLY: First, there is an  
 14 erosion control plan. The Town has the right to  
 15 access it. If something went horribly wrong and  
 16 there was damage to downstream property owners or  
 17 drainage structures, the Town could bring an  
 18 action for a public nuisance and seek  
 19 enforcement. We found with this code provision  
 20 and the involvement of professional foresters, we  
 21 have not had those problems.  
 22 MS. JEWITT: I was just double checking  
 23 that. Fine. Thank you.  
 24 CHAIRMAN EWASUTYN: Any additional  
 25 questions or comments from the public?  
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1 38  
 2 (No response.)  
 3 CHAIRMAN EWASUTYN: From Board Members?  
 4 (No response.)  
 5 CHAIRMAN EWASUTYN: Joe, do you have an  
 6 additional question?  
 7 MR. CANOSA: Not right now. Thank you.  
 8 CHAIRMAN EWASUTYN: We're preparing to  
 9 close the hearing.  
 10 I'll move for a motion from the Board  
 11 to close the public hearing on the Petrick Timber  
 12 Harvest.  
 13 MR. PROFACI: So moved.  
 14 MR. DOMINICK: Second.  
 15 CHAIRMAN EWASUTYN: I have a motion by  
 16 Joe Profaci and a second by Dave Dominick. Any  
 17 discussion of the motion?  
 18 (No response.)  
 19 CHAIRMAN EWASUTYN: I'll move for a  
 20 roll call vote starting with Cliff Browne.  
 21 MR. BROWNE: Aye.  
 22 MR. MENNERICH: Aye.  
 23 MR. PROFACI: Aye.  
 24 MR. DOMINICK: Aye.  
 25 MR. WARD: Aye.  
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1 39  
 2 CHAIRMAN EWASUTYN: Myself yes. So  
 3 carried.  
 4 The next motion we have this evening is  
 5 to declare a negative declaration for the Petrick  
 6 Timber Harvest.  
 7 MR. MENNERICH: So moved.  
 8 MR. WARD: Second.  
 9 CHAIRMAN EWASUTYN: I have a motion by  
 10 Ken Mennerich, a second by John Ward. Any  
 11 discussion of the motion?  
 12 (No response.)  
 13 CHAIRMAN EWASUTYN: I'll move for a  
 14 roll call vote starting with Cliff Browne.  
 15 MR. BROWNE: Aye.  
 16 MR. MENNERICH: Aye.  
 17 MR. PROFACI: Aye.  
 18 MR. DOMINICK: Aye.  
 19 MR. WARD: Aye.  
 20 CHAIRMAN EWASUTYN: Aye. The motion is  
 21 carried.  
 22 The last action this evening is --  
 23 Jerry, is it an approval or recommendation that  
 24 we're granting back to the building department?  
 25 MR. CANFIELD: Approval.  
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1 40  
 2 MR. DONNELLY: It's an approval at this  
 3 level.  
 4 MR. CANFIELD: Which will require a  
 5 resolution.  
 6 CHAIRMAN EWASUTYN: I'll move for a  
 7 motion to grant the approval for Petrick Timber  
 8 Harvest subject to the conditions presented to us  
 9 by the Planning Board Attorney, Mike Donnelly.  
 10 MR. PROFACI: So moved.  
 11 MR. WARD: Second.  
 12 CHAIRMAN EWASUTYN: I have a motion by  
 13 Joe Profaci and a second by John Ward. Any  
 14 discussion of the motion?  
 15 (No response.)  
 16 CHAIRMAN EWASUTYN: I'll move for a  
 17 roll call vote starting with Cliff Browne.  
 18 MR. BROWNE: Aye.  
 19 MR. MENNERICH: Aye.  
 20 MR. PROFACI: Aye.  
 21 MR. DOMINICK: Aye.  
 22 MR. WARD: Aye.  
 23 CHAIRMAN EWASUTYN: Aye.  
 24 Thank you all for coming out this  
 25 evening.  
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1 41

2 MR. PRENTIS: Thank you.

3 CHAIRMAN EWASUTYN: Any idea when you

4 may start?

5 MR. PRENTIS: It will be sometime this

6 winter.

7 CHAIRMAN EWASUTYN: When do you think?

8 MR. PRENTIS: Sometime this winter is

9 the purchaser's plan. I would think it's

10 probably going to start next month.

11 MR. HINES: It's probably only about a

12 three-week timeframe for that many trees.

13 MR. PRENTIS: It doesn't take long.

14

15 (Time noted: 7:32 p.m.)

16

17

18

19

20

21

22

23

24

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1 42

2

3 CERTIFICATION

4

5 I, Michelle Conero, a Shorthand

6 Reporter and Notary Public within and for

7 the State of New York, do hereby certify

8 that I recorded stenographically the

9 proceedings herein at the time and place

10 noted in the heading hereof, and that the

11 foregoing is an accurate and complete

12 transcript of same to the best of my

13 knowledge and belief.

14

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16

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20

21 DATED: January 23, 2015

22

23

24

25 MICHELLE L. CONERO - (845)895-3018

1 43

2 STATE OF NEW YORK : COUNTY OF ORANGE

3 TOWN OF NEWBURGH PLANNING BOARD

4 ----- X

5 In the Matter of

6

7 WEBB PROPERTIES (2014-10)

8 Route 17K & Auto Park Place

9 Section 97; Block 2; Lots 35 & 43

10 IB Zone

11

12 BIRKS REALTY/WEBB PROPERTIES (2014-30)

13 Unity Place, Auto Park Place & Route 17K

14 Section 97; Block 2; Lots 11.2, 13.2, 32, 35 & 43

15 IB Zone

16 ----- X

17

18 PUBLIC HEARING

19 SUBDIVISION & LOT LINE CHANGE

20 Date: January 8, 2015

21 Time: 7:32 p.m.

22 Place: Town of Newburgh

23 Town Hall

24 1496 Route 300

25 Newburgh, NY 12550

26

27 BOARD MEMBERS: JOHN P. EWASUTYN, Chairman

28 CLIFFORD C. BROWNE

29 KENNETH MENNERICH

30 JOSEPH E. PROFACI

31 DAVID DOMINICK

32 JOHN A. WARD

33

34 ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.

35 PATRICK HINES

36 GERALD CANFIELD

37

38 APPLICANT'S REPRESENTATIVE: ROBERT JAMES

39

40 ----- X

41

42 MICHELLE L. CONERO

43 10 Westview Drive

44 Wallkill, New York 12589

45 (845)895-3018

46 MICHELLE L. CONERO - (845)895-3018

1 44

2 MR. PROFACI: The next two items on

3 the agenda are Webb Properties, project

4 2014-10, located on Route 17K and Auto Park

5 Place, Section 97, Block 2, Lots 35 and 43,

6 located in the IB Zone. It's here for a

7 public hearing on the site plan. Also Birks

8 Realty/Webb Properties, project 2014-30,

9 Unity Place, Auto Park Place and Route 17K,

10 Section 97, Block 2, Lots 11.2, 13.2, 32,

11 35 and 43, located in the IB Zone. This is a

12 public hearing for subdivision and lot line

13 changes.

14 I'll ask Ken Mennerich to read the

15 notices of hearing.

16 MR. MENNERICH: "Notice of hearing,

17 Town of Newburgh Planning Board. Please take

18 notice that the Planning Board of the Town of

19 Newburgh, Orange County, New York will hold a

20 public hearing pursuant to Section 276 of the

21 Town Law on the application of Webb Properties,

22 Incorporated, project 2014-10, in regards to a

23 proposed auto dealership on a 4.94 plus or minus

24 acre parcel of property on premises Auto Park

25 Drive in the Town of Newburgh, designated on Town

26

27 MICHELLE L. CONERO - (845)895-3018

1 45  
2 Tax maps as Section 97, Block 2, Lot 35. The  
3 applicant, Webb Properties, has submitted an  
4 application for a new car dealership and  
5 associated vehicle storage. The property is  
6 located in the IB Zone. Said property is also  
7 the subject of a subdivision/lot line  
8 application, project 2014-30, where portions of  
9 the property will be the subject of lot line  
10 changes configuring the commercial subdivision.  
11 Said hearing will be held on the 8th day of  
12 January 2015 at the Town Hall Meeting Room,  
13 1496 Route 300, Newburgh, New York at 7 p.m. at  
14 which time all interested persons will be given  
15 an opportunity to be heard. By order of the Town  
16 of Newburgh Planning Board. John P. Ewasutyn,  
17 Chairman, Planning Board Town of Newburgh. Dated  
18 December 9, 2014."  
19 The second notice: "Notice of hearing,  
20 Town of Newburgh Planning Board. Please take  
21 notice that the Planning Board of the Town of  
22 Newburgh, Orange County, New York will hold a  
23 public hearing pursuant to Section 276 of the  
24 Town Law on the application of Birks Realty,  
25 Incorporated and Webb Properties, Incorporated,  
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1 46  
2 project 2014-30, for a resubdivision and lot line  
3 changes of five tax lots into seven tax lots with  
4 lot line modifications, on premises Auto Park  
5 Place in the Town of Newburgh, designated on Town  
6 Tax maps as Section 97, Block 2, Lots 11.2, 13.2,  
7 32, 35 and 43. The application is proposing to  
8 subdivide lots containing existing commercial  
9 structures and realign lot lines within the Auto  
10 Park Place complex. The project will result in  
11 five lots becoming seven lots total with internal  
12 lot line adjustments. The project is served by  
13 municipal water and municipal sewer. Access to  
14 all lots will be via Auto Park Place and/or New  
15 York State Route 17K. Said hearing will be held  
16 on the 8th day of January 2015 at the Town Hall  
17 Meeting Room, 1496 Route 300, Newburgh, New York  
18 at 7 p.m. at which time all interested persons  
19 will be given an opportunity to be heard. By  
20 order of the Town of Newburgh Planning Board.  
21 John P. Ewasutyn, Chairman, Planning Board Town  
22 of Newburgh. Dated December 9, 2014."  
23 MR. JAMES: My name is Bob James with  
24 A. Diachishin & Associates. I'm representing  
25 Webb Properties in this project.  
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1 47  
2 What we have is a proposed auto  
3 dealership on a 5-acre piece of property. The  
4 building footprint is approximately 38,000 square  
5 feet.  
6 There will be approximately 250 parking  
7 spaces, about 175 of which will be for new  
8 vehicle storage.  
9 The building will contain new  
10 showrooms, a service drive-through, service bays  
11 and a parts department.  
12 The location is along 17K and just east  
13 of Unity Place. The site will have access from  
14 Auto Park Place, and there will be a new access  
15 road built to connect Route 17K and Auto Park  
16 Place. The proposed access road from 17K is  
17 located directly across from the park and ride  
18 and bus terminal.  
19 There are existing underground  
20 utilities that the new project will tie into.  
21 These utilities will come off of Auto Park Place,  
22 and they'll all be underground.  
23 There will be some reconstruction along  
24 the east side of lot number 2, which is the  
25 former HSBC Bank. There will be some  
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1 48  
2 reconfiguration of drainage and paving.  
3 Also there will be some modifications  
4 to the northerly portion of that bank lot. There  
5 will be some additional parking constructed.  
6 In addition to that there will be some  
7 modifications to Route 17K. New York State DOT  
8 has been -- we have submitted to DOT for those  
9 changes. One of those changes will be a right-  
10 hand turn lane at the traffic light with 17K and  
11 Unity Place, and then there will be a left-hand  
12 turn lane coming into the project site at the  
13 intersection of the park and ride and the  
14 proposed access road.  
15 CHAIRMAN EWASUTYN: Thank you.  
16 Is there anyone here this evening that  
17 has any questions or comments on the proposal  
18 that was just presented?  
19 (No response.)  
20 CHAIRMAN EWASUTYN: Do you want to take  
21 some time while you're there now to discuss the  
22 subdivision?  
23 MR. JAMES: Okay. The subdivision  
24 concerns five existing tax parcels. The proposal  
25 is for seven tax lots, with Auto Park Place being  
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1 49  
2 the division line of four of the lots, and the  
3 access road -- the new proposed access road being  
4 a division as well. Lots 2, 4, 5, 6 and 7 have  
5 existing structures and existing uses thereon.  
6 Birks Realty currently owns what is lots 5 and 6  
7 and Webb Properties owns the remaining parcels.  
8 All of these lots have frontage on Auto Park  
9 Place, aside from lot 2 which has frontage on  
10 Unity Place and 17K. They all have access to  
11 underground utilities as well.  
12 There will be a maintenance agreement  
13 provided for utilization of Auto Park Place, the  
14 roadway and the utilities.  
15 CHAIRMAN EWASUTYN: Thank you. Again,  
16 is there anyone here this evening that has any  
17 questions or comments on the subdivision that was  
18 just presented?  
19 (No response.)  
20 CHAIRMAN EWASUTYN: Any questions or  
21 comments from Board Members?  
22 (No response.)  
23 CHAIRMAN EWASUTYN: At this point I'll  
24 turn to Pat Hines, Planning Consultant.  
25 MR. HINES: I'll start off with the  
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1 50  
2 subdivision. We have some procedural matters  
3 that were identified in our December 4th comments  
4 that have to be addressed on the plans.  
5 The subdivision requires a ZBA  
6 approval, which I believe you're seeking at this  
7 time?  
8 MR. BARTON: We're on for the 22nd.  
9 MR. HINES: That's an outstanding issue  
10 as well.  
11 Also the Orange County Planning Board  
12 referral was sent out on Monday. We haven't  
13 heard back from them either. There are those  
14 matters.  
15 It looks like the Planning Board, if we  
16 haven't issued a negative dec we can, and to  
17 close the public hearing. There are technical  
18 comments and those procedural matters.  
19 As far as the new car dealership,  
20 similarly there is an issue with receiving the  
21 City of Newburgh flow acceptance letter, which  
22 the Planning Board can't take action until we  
23 receive that. Then there are technical comments  
24 regarding the December 4th memo from my office  
25 that we're looking to have addressed, including  
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1 51  
2 the landscaping plan, the grassed island and  
3 coordination of the plan sheets, a DOT approval  
4 which I know the applicant is working towards.  
5 We saw some correspondence today that that's  
6 moving along. We will need submission of that  
7 DOT plan as part of the Planning Board package.  
8 Those changes will need to be reflected there.  
9 Without the City of Newburgh flow acceptance  
10 letter the Board can't take any action tonight.  
11 MR. JAMES: We did send out the flow  
12 acceptance letter.  
13 MR. HINES: We have copies of that.  
14 Our hands are kind of tied. We're at the mercy  
15 of the City of Newburgh to receive that back.  
16 CHAIRMAN EWASUTYN: Jerry Canfield,  
17 Code Compliance?  
18 MR. CANFIELD: Just one thing. We've  
19 learned tonight that there are off-site  
20 improvements. Pat had enlightened the Board to  
21 some improvement on the 17K acceleration and  
22 deceleration lanes and turn lanes. My suggestion  
23 is they be sent to the Zoning Board as well so  
24 they have an opportunity to see that.  
25 That may be in your best interest, if  
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1 52  
2 they have any concerns, that they see the same  
3 thing that the Planning Board is looking at. I'm  
4 not certain if that's in your packet but the  
5 suggestion is that you include it.  
6 MR. BARTON: The ZBA on the setbacks?  
7 MR. HINES: The DOT improvements that  
8 you're talking about. Often times they will  
9 question traffic and access. If you have that  
10 information before them, they can address those  
11 comments as they come up.  
12 MR. BARTON: Thank you.  
13 CHAIRMAN EWASUTYN: Okay. Then I think  
14 -- Mike Donnelly, do you have anything to add?  
15 MR. DONNELLY: I looked in my file and  
16 you issued a lead agency notice back in June and  
17 a negative declaration on December 4, 2014. I  
18 don't know that we had the subdivision  
19 application at that time. In any event, if that  
20 negative declaration doesn't cover it, you should  
21 issue a negative declaration on the separate  
22 subdivision application.  
23 MR. HINES: It has a separate job  
24 number so we're treating it as a separate  
25 project.  
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1 53  
2 MR. DONNELLY: The only other agency is  
3 the DOT.  
4 CHAIRMAN EWASUTYN: To make it easy on  
5 my part, then I'll move for a motion to close the  
6 public hearing on Webb Properties, 2014-10, site  
7 plan.  
8 MR. MENNERICH: So moved.  
9 MR. WARD: Second.  
10 CHAIRMAN EWASUTYN: I have a motion by  
11 Ken Mennerich, I have a second by John ward. Any  
12 discussion of the motion?  
13 (No response.)  
14 CHAIRMAN EWASUTYN: I'll move for a  
15 roll call vote starting with Cliff Browne.  
16 MR. BROWNE: Aye.  
17 MR. MENNERICH: Aye.  
18 MR. PROFACI: Aye.  
19 MR. DOMINICK: Aye.  
20 MR. WARD: Aye.  
21 CHAIRMAN EWASUTYN: Myself. So  
22 carried. Thank you.  
23 I'll move for a motion to close the  
24 public hearing for Birks Realty/Webb Properties,  
25 2014-30.  
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1 54  
2 MR. DOMINICK: I'll make the motion.  
3 MR. MENNERICH: Second.  
4 CHAIRMAN EWASUTYN: I have a motion by  
5 Dave Dominick, a second by Ken Mennerich. Any  
6 discussion of the motion?  
7 (No response.)  
8 CHAIRMAN EWASUTYN: I'll move for a  
9 roll call vote starting with Cliff Browne.  
10 MR. BROWNE: Aye.  
11 MR. MENNERICH: Aye.  
12 MR. PROFACI: Aye.  
13 MR. DOMINICK: Aye.  
14 MR. WARD: Aye.  
15 CHAIRMAN EWASUTYN: Aye.  
16 Since they are already before the ZBA,  
17 a referral isn't necessary; correct?  
18 MR. DONNELLY: That letter was sent in  
19 December.  
20 CHAIRMAN EWASUTYN: The Orange County  
21 Planning Department has been taken care of, so  
22 there's no need to do that. Thank you.  
23 MR. JAMES: Thank you.  
24 CHAIRMAN EWASUTYN: Anything else?  
25 MR. HINES: It does require  
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1 55  
2 architectural review. I see you have a rendering  
3 before you. Is that something that could be  
4 addressed tonight?  
5 MR. JAMES: I'm sorry, Pat?  
6 MR. HINES: The project will require  
7 architectural review.  
8 MR. JAMES: That's the front facade.  
9 MR. HINES: Is that the rendering or  
10 something? I don't know if you want to do that  
11 tonight.  
12 MR. BARTON: If that works. Is it more  
13 extensive than the rendering?  
14 MR. HINES: There's a form.  
15 MR. DONNELLY: You have to have a sheet  
16 that specifies the various materials that are  
17 shown in the picture.  
18 MR. BARTON: We don't have that  
19 tonight.  
20 CHAIRMAN EWASUTYN: I think we need to  
21 see all the sides, basically what we're  
22 approving.  
23 MR. PROFACI: Yes.  
24 CHAIRMAN EWASUTYN: They're saying they  
25 would like to see more detail.  
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1 56  
2 Can we ask you a candid question at  
3 this point?  
4 MR. BARTON: You can.  
5 CHAIRMAN EWASUTYN: John wouldn't be  
6 John if he wasn't candid. It's come to us that  
7 on the Town level they're receiving calls that  
8 the Planning Board isn't being cooperative with  
9 you and that we're making the approval process  
10 difficult. We just heard about that this  
11 evening. I think, speaking for myself, and maybe  
12 other Board Members, we were kind of set back by  
13 that. So maybe in all honesty, can we put that  
14 on the table to find out where we're not  
15 communicating well?  
16 MR. BARTON: You know, frankly John, as  
17 I sit here tonight I'm shocked that you would  
18 have gotten a call like that. All the Boards and  
19 groups that I deal with in the Town of Newburgh  
20 -- I'm sitting here thinking of how well  
21 organized this Board is and the fact that you can  
22 have four public hearings and have the confidence  
23 of all the members of the Town that they're not  
24 here challenging what you're doing.  
25 So I'm not sure where that came from  
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1 57  
 2 but I can assure you that from me, I have nothing  
 3 but positive -- every part of the process when it  
 4 comes to the Planning Board, I think you guys  
 5 have gone above to the point where you're not  
 6 only reviewing my application, you're guiding me  
 7 through the process. I appreciate everything  
 8 that the Town Planning Board has done for me.  
 9 CHAIRMAN EWASUTYN: Thank you.  
 10 Realizing that we're receiving maps  
 11 tomorrow on the revisions, are you looking to be  
 12 on the agenda next week? Do you see a benefit to  
 13 that or would you rather wait until you complete  
 14 the activity with the ZBA?  
 15 MR. BARTON: I would prefer -- we got  
 16 messed up. I actually thought the ZBA was going  
 17 to be different. I thought the Planning Board  
 18 might be the 22nd, and that's what we were trying  
 19 to do. I'm now understanding your schedule  
 20 better. It wasn't until this morning I found out  
 21 from Betty we're on the ZBA for the 22nd. Your  
 22 first meeting of February I think would be good.  
 23 Hopefully the City of Newburgh will get back.  
 24 One comment that we didn't talk about  
 25 tonight, Michael, was the cross easement on the  
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1 58  
 2 utilities.  
 3 MR. DONNELLY: I've had conversations  
 4 with Steve Gaba's office. They're going to  
 5 prepare those documents and get them to me.  
 6 MR. BARTON: Good. That's proceeding  
 7 also. Hopefully by the first meeting of February,  
 8 if we could get on that agenda, hopefully we can  
 9 get a lot of this stuff wrapped up.  
 10 MR. HINES: February 5th will be the  
 11 first meeting.  
 12 CHAIRMAN EWASUTYN: Okay. So we'll do  
 13 it for the 5th.  
 14 MR. BARTON: Okay.  
 15 CHAIRMAN EWASUTYN: Okay. Thank you  
 16 for having the patience to talk to us.  
 17 MR. BARTON: Thank you.  
 18  
 19 (Time noted: 7:50 p.m.)  
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1 59  
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 3 C E R T I F I C A T I O N  
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 7 I, Michelle Conero, a Shorthand  
 8 Reporter and Notary Public within and for  
 9 the State of New York, do hereby certify  
 10 that I recorded stenographically the  
 11 proceedings herein at the time and place  
 12 noted in the heading hereof, and that the  
 13 foregoing is an accurate and complete  
 14 transcript of same to the best of my  
 15 knowledge and belief.  
 16  
 17  
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 19 -----  
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 21  
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 23 DATED: January 23, 2015  
 24  
 25  
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1 60  
 2 STATE OF NEW YORK : COUNTY OF ORANGE  
 3 TOWN OF NEWBURGH PLANNING BOARD  
 4 ----- X  
 5 In the Matter of  
 6  
 7 DISCUSSION OF PROFESSIONAL SERVICE ESCROW FEES FOR  
 8 PUBLIC IMPROVEMENTS  
 9 ----- X  
 10 BOARD BUSINESS  
 11 Date: January 8, 2015  
 12 Time: 7:47 p.m.  
 13 Place: Town of Newburgh  
 14 Town Hall  
 15 1496 Route 300  
 16 Newburgh, NY 12550  
 17  
 18 BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
 19 CLIFFORD C. BROWNE  
 20 KENNETH MENNERICH  
 21 JOSEPH E. PROFACI  
 22 DAVID DOMINICK  
 23 JOHN A. WARD  
 24  
 25 ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
 PATRICK HINES  
 GERALD CANFIELD  
 26  
 27 ----- X  
 28 MICHELLE L. CONERO  
 29 10 Westview Drive  
 30 Wallkill, New York 12589  
 31 (845)895-3018  
 32  
 33 MICHELLE L. CONERO - (845)895-3018

1 61  
2 CHAIRMAN EWASUTYN: We have one item  
3 under Board Business, and that's the new proposed  
4 law for fee schedules.  
5 MR. DONNELLY: I looked all over and I  
6 don't have that.  
7 CHAIRMAN EWASUTYN: Pat, do you want to  
8 discuss it?  
9 MR. HINES: Mark Taylor's office has  
10 sent a letter regarding professional service  
11 escrow fees for public improvements. The Town  
12 has been running into some issues where projects  
13 are receiving final approval, constructing their  
14 improvements or not constructing their  
15 improvements appropriately. When it comes time  
16 for the Town to struggle through the dedication  
17 of the public improvements, the roads, water,  
18 sewer, et cetera, there's no money or no funding  
19 to accomplish that task. The Staples project is  
20 an example where projects began but aren't  
21 complete. Now there's residential structures on  
22 roads that haven't been dedicated, Meadow Winds,  
23 Anchorage Subdivision. There's a list of them in  
24 the letter. The Palmerone Subdivision, that kind  
25 of lingered after approval.  
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1 62  
2 What they're suggesting is that the  
3 escrow deposits be collected upfront rather than  
4 when the applicants come to dedicate the roadways  
5 so that if there is a problem with the  
6 dedication, that money is on hand.  
7 There's also an increase in the  
8 proposed amount, \$6,000 to \$1,650 and \$250 per  
9 road cost. Basically they're trying to collect  
10 those fees upfront from the developer prior to  
11 final approval rather than chasing them when  
12 either the dedications are proposed, or the Town  
13 has to become involved with completing projects,  
14 or attempting to do dedications when the  
15 developer has gone away. So that's the gist of  
16 the letter. It looks like it's just going to be  
17 another checkbox, as we say, for the final  
18 approvals.  
19 They specified in this letter the  
20 escrow amounts increased as well as the procedure  
21 that they would like to undertake. So as a  
22 condition of final approval, the posting of these  
23 escrow fees for public dedications will have to  
24 be part of it also.  
25 CHAIRMAN EWASUTYN: Questions or  
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1 63  
2 comments from the Board?  
3 MR. PROFACI: Pat, I'm sorry, I must  
4 have misunderstood. You said it's being  
5 increased \$6,000?  
6 MR. HINES: \$1,600. It's from \$600 to  
7 \$1,650. That's for the professional services  
8 involved with dedication of those. There's  
9 apparently a \$250 fee per road. It has to do  
10 with the administrative costs. They want those  
11 paid upfront now rather than later. And then an  
12 initial escrow deposit of \$1,750 for the first  
13 road and \$700 for each road for the dedication of  
14 those roadways. There's a chart there. It has  
15 to do with getting the fees. The fees are there  
16 now. They're increasing them a little bit and  
17 they want them upfront rather than it could be  
18 six, seven years later and all of a sudden  
19 there's an issue.  
20 MR. DONNELLY: It is not really a local  
21 law but a request for a change in policy that  
22 they asked you to abide by.  
23 MR. HINES: I'll give it to Mike.  
24 MR. DONNELLY: I did find it.  
25 MR. CANFIELD: I think part of that was  
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1 64  
2 to kind of incorporate, make it a condition of  
3 approval, and being a condition of approval the  
4 Planning Board Chairman can't sign the plans  
5 until the fees are collected.  
6 MR. HINES: Right now I think they are  
7 chasing a lot of them, and this is to stop that  
8 from happening.  
9 CHAIRMAN EWASUTYN: Would it be  
10 possible this year, sooner than later, for the  
11 Planning Board, for myself to come up with this  
12 somewhat all inclusive list of fees that were  
13 generally part and parcel of either subdivisions  
14 or site plans?  
15 MR. HINES: I can put that together. I  
16 think Bryant Cocks had started that. I have all  
17 his files so I think I can take what he started  
18 and expand with these newer ones. I think Jerry  
19 suggested that a couple times to make sure  
20 nothing slips through the cracks.  
21 CHAIRMAN EWASUTYN: Who receives these  
22 monies ultimately? Realizing depending upon --  
23 MR. HINES: That's even more difficult.  
24 MR. CANFIELD: I had a conversation  
25 this morning with Mark Taylor and Supervisor  
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1 65  
2 Piaquadio requesting again that Mark kind of  
3 create a guidance. What prompted that was the  
4 supervisor's office called me and asked -- they  
5 had several memos that Karen did inspections and  
6 requested or authorized release of landscape  
7 securities. Gil called me and he was like how  
8 does this happen, how do I do this, and then the  
9 light went on, he's the new supervisor, of course  
10 he doesn't know. As it stands right now there's  
11 only a couple of us that really understand the  
12 whole security process. What makes it even more  
13 complicated is the form of security. If it's  
14 cash security it's handled this way, a letter of  
15 credit this way, if it's bonding it's this way.  
16 That process is ultimately approved by the Town  
17 Board, and so to release it it needs to be  
18 approved by the Town Board.  
19 I'm suggesting and willing to work with  
20 Mark that we create somewhat of a guide for the  
21 Town Board Members, and everybody for that  
22 matter.  
23 MR. HINES: We can attach that to the  
24 checklist and it will clarify it for someone.  
25 MR. CANFIELD: It would make it less  
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1 66  
2 complicated, and in the absence of any one of us  
3 that currently have a good idea how it works.  
4 CHAIRMAN EWASUTYN: Questions from  
5 Board Members?  
6 MR. WARD: No.  
7 MR. DOMINICK: No.  
8 MR. PROFACI: I think it's a great  
9 idea.  
10 CHAIRMAN EWASUTYN: Ron Barton will be  
11 an example that -- Ron will have approval soon.  
12 Mike is working on some of the legal things but  
13 there's the money that's going to come into play.  
14 MR. HINES: He doesn't have -- he does,  
15 with the DOT. There's no public improvements for  
16 his project.  
17 MR. DONNELLY: This is more geared to  
18 residential.  
19 MR. HINES: Similarly, he's going to  
20 have a list of conditions.  
21 MR. BROWNE: What does it take now to  
22 enact what was just gone over?  
23 MR. HINES: They're just telling you  
24 really.  
25 MR. DONNELLY: Apparently, from the way  
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1 67  
2 I read it, I don't know if I have a copy, there's  
3 a road dedication and acceptance procedure. This  
4 is paragraphs 4 and 5.  
5 MR. HINES: This was news to me.  
6 MR. DONNELLY: I'm going to ask Mark  
7 for the full --  
8 MR. BROWNE: The Town Board is going to  
9 basically legislate and we're going to follow.  
10 MR. HINES: Quite frankly, they've been  
11 chasing it at the end of the project and they  
12 want to get it upfront.  
13 MR. BROWNE: It makes sense.  
14 MR. CANFIELD: I think it's like 179 or  
15 something like that.  
16 MR. DONNELLY: I'll look for it.  
17 MR. CANFIELD: Highways, streets.  
18 MR. DONNELLY: He didn't reference the  
19 code section. I thought it was a different  
20 document. I'll look.  
21 CHAIRMAN EWASUTYN: All right.  
22 Congratulation to everyone.  
23 The next meeting is a week from today.  
24 Cliff Browne is uncertain whether he'll be here  
25 or not. Frank Galli is away. Everyone needs to  
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1 68  
2 kind of stand up to the plate. There's four of  
3 us. Hopefully that will work.  
4 I'll move for a motion to close the  
5 Planning Board meeting of the 8th of January.  
6 MR. PROFACI: So moved.  
7 MR. DOMINICK: Second.  
8 CHAIRMAN EWASUTYN: I have a motion by  
9 Joe Profaci, a second by Dave Dominick. I'll ask  
10 for a roll call vote starting with Cliff Browne.  
11 MR. BROWNE: Aye.  
12 MR. MENNERICH: Aye.  
13 MR. PROFACI: Aye.  
14 MR. DOMINICK: Aye.  
15 MR. WARD: Aye.  
16 CHAIRMAN EWASUTYN: Aye.  
17  
18 (Time noted: 8:00 p.m.)  
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C E R T I F I C A T I O N

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

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DATED: January 23, 2015

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