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

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In the Matter of

METRO PCS - QUAKER STREET  
(2010-01)

409 Quaker Street  
Section 11; Block 1; Lot 143  
AR Zone

- - - - - X

SITE PLAN  
SPECIAL USE PERMIT

Date: February 18, 2010  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DANIEL LAUB

- - - - - X

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

MR. PROFACI: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of February 18, 2010.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. WARD: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

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

MR. COCKS: Bryant Cocks, Planning  
Consultant, Garling Associates.

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

MR. MUSSO: Mike Musso, HDR Wireless  
Telecommunications.

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

MR. WARD: Please stand to say the  
Pledge of Allegiance.

(Pledge of Allegiance.)

MR. WARD: If you would please turn off  
your cell phones. Thank you.

MR. PROFACI: The first item on this  
evening's agenda is Metro PCS - Quaker Street.  
It's a site plan and special use permit. It's at  
409 Quaker Street on an existing cell tower,  
Section 11; Block 1; Lot 143, and it's  
represented by Anthony Gioffre, or not.

MR. LAUB: Good evening. I'm standing  
in stead of Mr. Gioffre tonight. My name is --  
Chairman and Members of the Board, my name is  
Daniel Laub here on behalf of Metro PCS. I was  
here before you last month on the very same

matter.

I want to apologize to the Board. I know I made a late submission today for your review. It wasn't intended to provide new information or to catch the Board unaware. As you're well aware, you have a wireless telecommunications consultant who we've been trying to work with and provide information to them. I knew you had a work session and they would be trying to provide their review to you. I didn't want to have communications to them that you weren't fully aware of, so that's why we're trying to provide information to them and also make sure that you have a full copy. That's why we made sure there were record letters from your review. I do realize it was a very late submission. We were trying to coordinate. I do apologize for the lateness of that.

Since we were last before you we did have a site visit with HDR LMS in which we went out with a member of the construction team of Metro PCS, myself and the consultant from Mr. Musso's firm to this site, as well as the other site on the agenda this evening.

Subsequent to that we received inquiries, review questions for additional information. That was the subject of our letter -- aforementioned letter we provided to you. Good portions of that letter were dedicated to some of the radiofrequency or, you know, basically the operations of the facility, the nature of the coverage that would be provided, the standards which Metro PCS is looking to serve in terms of frequency to its customers, its anticipated usage, how this is kind of fitting into its network.

In addition, there were some information requests for additional structural information, which the request was specifically to make sure that the structural information which we provided previously that we were working on was upgraded to the standard G, which I believe was the request. Actually I just received that today. I did not submit that obviously. We did receive that and will be able to submit that to you and to the consultants in the very near future.

I'm not sure what other items we want

1 to address. I know Mr. Musso is here. If  
2 there's any comments you want to receive first on  
3 the record, what issues we want to go into.  
4

5 CHAIRMAN EWASUTYN: Daniel, I think  
6 we'll approach it that way at this point. The  
7 Board will refer to their telecommunications  
8 person, Mike Musso, and we'll open the meeting up  
9 that way.

10 MR. LAUB: Okay.

11 CHAIRMAN EWASUTYN: Thank you.

12 MR. MUSSO: Thank you, Mr. Chairman,  
13 Members of the Board and members of the public.  
14 Mike Musso with HDR working on behalf of the Town  
15 of Newburgh to perform a technical review on the  
16 Metro PCS application.

17 For graphics I just want to put one of  
18 the drawings up on the board here for reference.  
19 I believe this is the second time, outside of the  
20 introduction last month, that the applicant has  
21 been in front of you.

22 Just to go over the details of the  
23 application, 409 Quaker Street is an existing  
24 monopole, approximately 150 feet with some  
25 existing older antennas now extending to about

160 feet.

The proposal in front of you for Metro PCS is the addition of six panel antennas at a lower height than the two arrays that exist. In fact, they're located about 126 feet above ground surface. So there's no proposed change to the configuration, no proposed height or any change appreciably in the lighting.

There's an existing lease area along the ground. Metro PCS is looking to expand that area by about eight feet to the south. Again, as we spoke in work session it's a fairly large parcel of property and somewhat focused leased area around the monopole and existing ground-based equipment. When I say existing, there's antennas by Sprint and Nextel that are operational on this tower.

I have with me tonight a draft report, but being that we very recently received supplemental information and are intending to receive the full structural analysis, I'll be submitting a final report within the next one to two weeks for your review and comment. I expect it to be a pretty straightforward letter report.

At this point for Quaker Street I'd just like to run through some of the findings that will be included in that report. We did review the technical information including existing sites of Metro and other proposed sites or contemplated sites that may come to fruition, both in the Town and the surrounding areas in the future. Metro PCS is a newer wireless carrier to the Hudson Valley, and certainly by this application and the other application on the agenda tonight they're looking to co-locate on existing structures. That's certainly, as you know, something that's preferred by the Town of Newburgh's code for wireless.

Upon our review of the application we did have a punch list of about five or six items, clarifications, more details or revisions on the structural analysis. We've received those today. We should get the structural in.

At this point we feel the application is comprehensive and has been responsive to our requests.

We did conduct a site visit on February 1st. We've looked through the existing, as I



said, coverage and documented that there is a gap in service, especially along the Thruway and west of the Thruway, the Plattekill area and the Quaker Street area. This proposed co-location of six antennas will provide additional Metro PCS service and remedy that gap. Again, this will be described in more technical terms in our report.

We also asked them to provide radiofrequency emissions looking at the existing Sprint and Nextel antennas, and also making conservative assumptions for the six antennas being proposed. We always like to see a cumulative worst case analysis for radiofrequency exposure. That analysis has been in. I looked at it quickly again today. Between now and the time the report is submitted we may have a couple clarifications, especially with regard to some of the older antennas. The punch line with the analysis is there's going to be orders of magnitude below what's known as the maximum permissible exposure limit. That's a health-based criteria that the FCC promulgates and puts forth. In fact, their cumulative analysis shows the ground-based areas within the entire vicinity of

property actually. They would be on the order of about one percent of the allowable general public criteria.

We did look at the photo simulations that were provided and we feel that essentially there's no true significant incremental visual impact. As I noted, we're looking at the installation of six Metro antennas. Right now there's more Nextel and Sprint antennas. We're not looking at any height increase to the existing facility.

Our conclusions and recommendations of course are still coming together. We do, based on the nature of the pole, it's 150 foot pole, and what it's accommodating now and the fact that the incremental load that's going to be put forth, we believe that the newer structural standard that's being analyzed, they will be in compliance with that, and there will not be any structural issues either.

In short, except for the finalization of our report, I believe we've covered the items as per the code and the ones that we usually cover on behalf of the Board. So if anyone has

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METRO PCS - QUAKER STREET

11

any questions at this point, I think it's -- the  
report is the next thing you'll see in a couple  
weeks.

CHAIRMAN EWASUTYN: Thank you.

Frank Galli?

MR. GALLI: No additional comments.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No comments.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing additional.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Nothing additional.

CHAIRMAN EWASUTYN: Comments from our  
consultants. Jerry Canfield?

MR. CANFIELD: I have nothing.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have nothing on this.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have nothing.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: I looked at the site and  
made recommendations as to how to screen it, but  
at work session the Planning Board mentioned that  
they didn't feel it was within their jurisdiction

or within their right to ask for screening outside of your leasable area.

MR. MUSSO: If I may. One note on what the applicant has submitted today to the Board as well. The idea about screening did come up based on the Landscape Architect's letter, and there is a proposal to do some additional screening on the side of the compound, the south side of the compound, that they're looking to expand by about eight feet or so. So I think that's something that I will follow up in our report and speak with Karen about that, about getting something reasonable and appropriate to provide some additional screening. It's not a highly viewed site per se in that you have the Thruway on one side and you're setback from the Thruway and it's a very large overall parcel of land, even outside the leasable. So there's somewhat buffering. I think we could probably work with the applicant to get maybe something else that's reasonable and appropriate to help a little bit more.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant, have we received acknowledgement from the Orange County Planning

Federation -- from the Orange County --

MR. COCKS: They gave them a Local  
determination and they had no issues.

CHAIRMAN EWASUTYN: The Orange County  
Planning Department. Excuse me.

Having heard the recommendations from  
our consultant, Mike Musso, I would move for a  
motion to declare a negative declaration for the  
site plan and special use permit and schedule the  
18th of March for a public hearing.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by  
Joe Profaci. Do I have a second?

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: A second by Ken  
Mennerich. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So

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METRO PCS - QUAKER STREET

carried.

If you could work with Bryant Cocks,  
our Planning Consultant, as far as the mailing  
list and work with the media as far as the  
publication of the newspaper.

MR. LAUB: Sure.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 7:13 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: March 8, 2010

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

- - - - - X

In the Matter of

METRO PCS - VALLEY VIEW DRIVE  
(2010-02)

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

- - - - - X

SITE PLAN  
SPECIAL USE PERMIT

Date: February 18, 2010  
Time: 7:14 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DANIEL LAUB

- - - - - X

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

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METRO PCS - VALLEY VIEW DRIVE

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MR. PROFACI: The next item on this evening's agenda is Metro PCS - Valley View Drive, a site plan and special use permit, Valley View Drive cell tower, Section 15; Block 1; Lot 10, and it's represented by Dan Laub.

MR. LAUB: I'll probably simply defer to Mr. Musso. I think he's providing you a comprehensive review.

This is similar to our last application which was before you.

We did have a site visit on the site. I think I just -- there was one -- I think that one central concern with this site, which is a co-location site, is that it's going on an existing tower on which Verizon was recently granted approvals for some additional antennas. I think they were point-to-point dish antennas. I believe as part of that, Verizon, for structural purposes, needed to do some upgrades to the existing tower in order to accommodate that and make sure it was feasible for them to do so. I think the fundamental question is did any additional work need to be done now that Metro PCS was coming in. We've been able to review



Verizon's structural. I think that's what happened here is the structural portions are being produced by the same company, which is being coordinated by the tower owner. What's actually happened is in time, while this Board saw Verizon first and Metro PCS second, Metro applied with the tower company to go on the tower before Verizon, so their structural report took into consideration Metro PCS's equipment. I think fundamentally Verizon's report had already taken into consideration Metro PCS, so it's not like a big question out there.

That being said, we're having it revised to meet the G standard at per Mr. Musso's request. I think that was the large outstanding issue from that site. I just wanted to make sure we had addressed that. I'll turn it over to Mr. Musso.

MR. MUSSO: Thank you once again. Mike Musso from HDR.

A similar co-location, also along the Thruway. In fact, this site would serve Metro as a hand-off site on other sites along the Thruway as it does now. For example, the Nextel antenna

1 that exists on the Quaker Street tower we just  
2 reviewed, this tower is located a little bit  
3 south along the Thruway off of Valley View, and  
4 again it's a hand off for people driving south  
5 along the Thruway and tying into other sites  
6 both north and south of that during those  
7 travels.

8  
9 The proposal here is -- it's also an  
10 existing 150 foot tower. There's right now three  
11 arrays that are mentioned with Nextel at the top,  
12 Verizon in the second slot and T-Mobile at the  
13 third. Metro PCS is proposing six panel antennas  
14 between the top and the second provider.

15 One thing of importance that we asked  
16 for right on, and Mr. Laub had spoken about, was  
17 with the recently reviewed dish antenna that we  
18 looked at for Omnipoint. Currently that's not  
19 shown on the plans. We do want to coordinate and  
20 feel comfortable that those improvements that  
21 were put forth by Verizon a few months ago, that  
22 they're reasonable and appropriate for the Metro  
23 PCS antenna. So I trust that the structural  
24 analysis which is coming together will articulate  
25 those facts and include all the loads, both

1 approved and proposed, and show them  
2 transparently. That's something certainly that we  
3 anticipate getting in the very new future. As  
4 you're used to, our structural analysis will be  
5 appended to our report. Very much the same shape  
6 of this report in that we did receive some more  
7 information today. We had some similar types of  
8 clarification questions. You can imagine the two  
9 applications were very similar in terms of what  
10 was submitted, so our questions were very similar  
11 among the two.  
12

13 Aside from the structural that's  
14 pending, at this time I really see no need for  
15 other clarifications. We'll be finalizing our  
16 report which we have drafted now.

17 I think that's about it.

18 CHAIRMAN EWASUTYN: Comments from  
19 Boards Members. Frank Galli?

20 MR. GALLI: No questions.

21 MR. MENNERICH: No questions.

22 MR. PROFACI: No questions.

23 MR. WARD: I remember about the pine  
24 trees. Did you address that? There's a  
25 residential house right there.

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MR. LAUB: There are a few existing pine trees adjacent to the compound for screening. I think a couple of them -- I was out at the site. I think a couple of them have since failed. I think we're going to coordinate with the tower owner to replace those. We want to do so after construction because we have to go in with our trenching for the conduit for the -- the electrical conduit. I want to make sure that's done first.

MR. WARD: Very good.

MR. MUSSO: We will add those notes to the site plan, both for the vegetation and things like the dish antenna that aren't shown. We'll have the site plan revised on that.

CHAIRMAN EWASUTYN: I have one question. In your letter for this project we note that this network won't be on air -- will not be on air until sufficient sites are built. So you're actually going to go ahead and dress up the monopole, be ready for business but you won't be operating until you -- how does this work?

MR. LAUB: Well it's actually that the antennas will be installed but it won't be

2 something where you see it advertised for the  
3 network to be used. You won't see commercials or  
4 we won't be advertising to customers to say yes,  
5 this area does have coverage. So while you get --  
6 until you get a sufficient number of sites where  
7 somebody can travel say up and down the Thruway  
8 without dropping a call. You know once you've  
9 got sites and it's reliable, that's when you  
10 actually open up to the public. So it's kind of  
11 as the network rolls out. You kind of need to  
12 get a sufficient number of sites before you can  
13 say okay, we have a skeletal network available  
14 for everybody along the major thoroughfares.

15 CHAIRMAN EWASUTYN: Metro has been in  
16 existence how long now?

17 MR. LAUB: They're fairly new. In the  
18 New York market for about three years but on the  
19 air for a little over a year.

20 CHAIRMAN EWASUTYN: And your strong  
21 market is which market? Where did you get your  
22 start?

23 MR. OLSON: Dallas, Florida, recently  
24 Los Angeles, Boston, Phillie, Los Angeles,  
25 Detroit.

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METRO PCS - VALLEY VIEW DRIVE

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MR. LAUB: The south was strong for a long time. I know watching baseball you'd see Metro PCS advertised in the State of Florida. I think they've been out there active I think six or seven years. They're a fairly new entry into the market as far as the AT&T, Verizons and T-Mobiles.

CHAIRMAN EWASUTYN: Karen, you'll advise us as far as the replacement of the evergreens and notes and such, and you'll work with Mike Musso.

Will we be requiring a bonding on that plant material?

MS. ARENT: Usually you do. And they should be shown on the plan. If you want to just call, I can help you with the species. Ideally I think Norway Spruce would work best because they tolerate some shade. Right now there's Blue Spruce and Norway Spruce there. So yes. Just replace them with three Norway Spruce. You can go five to six foot in height. I can e-mail you notes that should be also part of the plans.

MR. LAUB: Sure.

CHAIRMAN EWASUTYN: Okay. Jerry

2 Canfield, Code Compliance?

3 MR. CANFIELD: We have nothing  
4 additional.

5 CHAIRMAN EWASUTYN: Pat Hines, Drainage  
6 Consultant?

7 MR. HINES: We have nothing on this.

8 CHAIRMAN EWASUTYN: Bryant Cocks,  
9 Planning Consultant?

10 MR. COCKS: As the last application,  
11 Orange County Planning Department did give a  
12 Local determination.

13 CHAIRMAN EWASUTYN: Okay. Having heard  
14 the recommendations from our Consultant Mike  
15 Musso, I move for a motion to declare a negative  
16 declaration for the Metro - Valley View Drive  
17 location for the site plan and special use  
18 permit, --

19 MR. WARD: So moved.

20 CHAIRMAN EWASUTYN: -- and also  
21 schedule that for a public hearing for the 18th  
22 of March. I have a motion by John Ward. Do I  
23 have a second?

24 MR. PROFACI: Second.

25 CHAIRMAN EWASUTYN: A second by Joe

1 METRO PCS - VALLEY VIEW DRIVE 24

2 Profaci. Any discussion of the motion?

3 (No response.)

4 CHAIRMAN EWASUTYN: I'll move for a

5 roll call vote starting with Frank Galli.

6 MR. GALLI: Aye.

7 MR. MENNERICH: Aye.

8 MR. PROFACI: Aye.

9 MR. WARD: Aye.

10 CHAIRMAN EWASUTYN: And myself.

11 MR. LAUB: I thank the Board for its

12 time and indulgence.

13

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

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

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

\_\_\_\_\_  
DATED: March 8, 2010

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

- - - - - X  
In the Matter of

BANK OF AMERICA  
(2009-18)

Route 300 and Meadow Hill Road  
Section 66; Block 2; Lot 1  
IB Zone

- - - - - X

SITE PLAN

Date: February 18, 2010  
Time: 7:24 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: NICK SADLER

- - - - - X

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

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BANK OF AMERICA

MR. PROFACI: The next item on the agenda is Bank of America. It's a site plan located on Route 300 and Meadow Hill Road, Section 66; Block 2; Lot 1, represented by Barry Medenbach.

MR. SADLER: I'm Nick Sadler from Medenbach & Eggers. I'm here on behalf of the Bank of America site plan.

Just to give you guys a little review, the proposal is to put an ATM in this location here. It would include a drive-up lane for that and striping, an exit bypass lane and some new lighting to provide security.

The Board made several recommendations last month and we've taken most of them into account. The biggest one is we're going to provide some new landscaping. We're going to remove the existing tree that's on the corner right here and replace it with a Hedge Maple. We're going to plant three new trees along Route 300 here, Red Maples. We're going to provide twenty-eight Gold Junipers along the front here between the parking . We're going to soft cut out a portion of the pavement here and replace it

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BANK OF AMERICA

28

with a landscaping bed which will consist of  
Hameln Fountain and Syracuse Juniper.

We're going to relocate the dumpster  
on the site. Currently it's blocking this exit.  
We're going to move it off the pad to the side  
pad and we're going to screen it.

In addition to that we're going to  
restripe all the parking on the site. It will be  
as shown here.

We're going to provide a crosswalk  
which will allow people to get from the employee  
parking to the bank.

We're also providing a sidewalk at that  
location.

We're going to provide a speed bump at  
the exit lane right here to slow down traffic.

We're going to soften this radius on  
the corner here, the fourteen feet, so it's not  
so much of a right angle, and increase the  
sidewalk.

We've also lowered the light fixture.  
Before they were at twenty feet, we lowered them  
to sixteen feet.

Also, we're relocating the sign which

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is currently in the DOT right-of-way. It's going to be relocated within the property and lowered to a monument sign so it actually won't stick up in the trees, it will be down below the tree canopies.

Also we're removing the guide rail. It really doesn't serve a purpose. It's just down here between the Taco Bell and this property.

That's about all the revisions.

CHAIRMAN EWASUTYN: Before I turn to our consultants, any comments from Board Members. Frank Galli?

MR. GALLI: I like the idea of moving the sign and putting the small one there. It will look a lot nicer along that road.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think what's proposed will be a great improvement for that facility.

On the restriping for the parking, the Town of Newburgh standard is a little different than what you've got on your plan --

MR. SADLER: Okay.

MR. MENNERICH: -- diagram.

MR. SADLER: Okay.

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CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing additional.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: There was a question about the handicap, making a ramping.

MR. SADLER: I think there actually is a ramp existing right now at the front. I think actually the handicap now is over right here. We're actually centering it on the ramp which will make it more in compliance with ADA. I know we had a handicap ramp here as well.

MR. WARD: You covered everything I addressed before. Thank you.

CHAIRMAN EWASUTYN: Jerry, if you have a chance would you take a field look at that?

I'm not doubting you but somehow I don't recall it being a drop curb in the front there at all.

MR. CANFIELD: We'll look into it.

CHAIRMAN EWASUTYN: Any comments, Jerry Canfield?

MR. CANFIELD: Nothing additional.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We didn't generate any

2 comments but at work session it was talked about  
3 the double striping that's required in the Town.  
4 I can provide you with the detail for that if you  
5 want to contact my office.

6 And then the handicap accessibility.  
7 There is no detail for the new handicap ramp. If  
8 you can just check that. Detail the new one and  
9 confirm the location on the plan for the existing  
10 one. If there's not, then where you're putting  
11 that radius in, put a handicap accessible ramp  
12 there.

13 CHAIRMAN EWASUTYN: Bryant Cocks,  
14 Planning Consultant?

15 MR. COCKS: The first thing we're going  
16 to need for approval is a signed and sealed  
17 survey sheet. The survey actually has to be  
18 sealed by a surveyor, not an engineer.

19 The EAF you submitted didn't have any  
20 data on threatened or endangered species. You're  
21 going to have to check with the DEC. There's not  
22 going to be any there but the EAF has to be full  
23 and complete for approval.

24 On the site plan the bulk table has to  
25 be revised to show the actual setback mentioned,

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not just the minimum required. The front yard setback should be labeled as 60 feet.

A parking calculation table should be shown on the plans.

This did get a Local determination from Orange County Planning Department. This is a Type II action so no further SEQRA determination is needed.

The Planning Board will have to vote on if they would like to have a public hearing for the project since it's optional for a site plan.

CHAIRMAN EWASUTYN: Before I refer to Karen Arent, I'll motion to the Board Members to see if they want to have a public hearing. Frank Galli?

MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Let the record show that the Planning Board waived the requirement for a public hearing.

Karen Arent, Landscape Architect?

MS. ARENT: They're just minor



1  
2 comments. Instead of one Red Maple, make it  
3 three.

4 The radius where the new planting  
5 island meets, if you can could enlarge that so  
6 the cars don't drive over the landscaping.

7 Just make a note to add landscaping as  
8 necessary in the landscape area adjacent to the  
9 curb sidewalk.

10 I was just wondering, did you show a  
11 detail of the monument sign?

12 MR. SADLER: We submitted a sheet to  
13 the Board. It had a cut sheet of the monument  
14 sign.

15 MS. ARENT: I just wanted to make sure.  
16 Thank you.

17 I'm sorry. One more thing. A landscape  
18 cost estimate needs to be submitted.

19 CHAIRMAN EWASUTYN: As Bryant  
20 explained, this is a Type II action so we don't  
21 have to make a SEQRA determination. It's here  
22 tonight for a final conditional site plan  
23 approval.

24 I'll turn to Mike Donnelly, Planning  
25 Board Attorney, to give us the outline for

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resolution, please.

MR. DONNELLY: The resolution would be for both site plan and ARB for the kiosk facility itself. We'll need sign-off letters from both Karen Arent and Bryant Cocks for the items they just went through in their memos. The plans can't be signed until they've given you letters that indicate that those issues have been resolved. We'll have the standard condition regarding ARB approval which essentially states that you must build it the way it is shown on the plans. We will need a landscape security and an inspection fee. As Karen told you, you need to provide an estimate of those costs. Finally, we have a provision, which is a standard one, that says you may not build any fixtures or equipment on the site that is not shown on the site plan that's being acted upon.

CHAIRMAN EWASUTYN: Any additional  
from the Board Members?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Then I'll move for a motion to grant conditional site plan approval and ARB approval for the Bank of America subject

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to the conditions mentioned by our Attorney, Mike Donnelly, in the resolution.

MR. WARD: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

Thank you.

MR. SADLER: Thank you.

(Time noted: 7:32 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: March 8, 2010

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

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In the Matter of

SUBDIVISION FOR GARDNERTOWN COMMONS  
(2009-12)

Intersection of Gardnertown Road and Creek Run Road  
Section 75; Block 1; Lot 21  
R-3 Zone

- - - - - X

CONCEPTUAL  
FIVE-LOT SUBDIVISION

Date: February 18, 2010  
Time: 7:32 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO and  
LORRAINE POTTER

- - - - - X

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

1  
2 MR. PROFACI: The next item on this  
3 evening's agenda is the subdivision for  
4 Gardnertown Commons. It's a conceptual five-lot  
5 subdivision, southwest intersection of  
6 Gardnertown and Creek Run Roads, Section 75;  
7 Block 1; Lot 21, represented by Lorraine Potter.

8 MR. CAPPELLO: Good evening. I'm John  
9 Cappello with Jacobowitz & Gubits. I'm here with  
10 Lorraine Potter from Lanc & Tully and also  
11 Marshall Schiff who is a fellow attorney who  
12 specializes in condo and homeowners association  
13 and the law. He's assisting us as he appeared  
14 with us before and met with the assessor to  
15 address the specific issues as it relates to this  
16 subdivision and the four condominiums that will  
17 be formed to allow us to build this out in  
18 phases.

19 As you recall, we've received site plan  
20 approval for the 104-unit condominium project.  
21 Since then there's been some minor revisions that  
22 Lorraine will explain. It's now 103 units with a  
23 couple switched from townhouses to flats. But  
24 the real purpose we're back before the Board now  
25 is, as we had discussed during the site plan

1 review, we always had intended to build this out  
2 in construction phases, not to go in and build  
3 103 units all at one time. Due to the very  
4 unique and specific requirements of condominium  
5 laws, you can not have a creeping condominium.  
6 So it's necessary to allow us to build it in  
7 phases to form four separate condominiums and a  
8 lot for a homeowners association.

9  
10 What will be done is we will now have  
11 four lots encompassing each separate phase of the  
12 condominium with the land surrounding that  
13 additional condominium. Those will be owned by  
14 each individual condominium. The entrance way and  
15 the recreation facilities will be owned by the  
16 homeowners association.

17 Additionally, there will be a series of  
18 restrictive covenants, cross easements giving all  
19 the authority for all the maintenance of all the  
20 open land and the buildings to the homeowners  
21 association which each individual condo and all  
22 the condominium owners will be members of.

23 We've discussed the concept, as I said,  
24 with the assessor, with the town attorney and  
25 your attorney, Mr. Donnelly. We will be

1 providing the excerpts -- appropriate excerpts  
2 from the proposed HOA condo documents to the town  
3 attorney with copies to Mr. Donnelly in the very  
4 near future.

5  
6 What we're here tonight is for Lorraine  
7 to get up now and explain a little bit about the  
8 layout to you. Hoping that once we've presented  
9 this to you and you're comfortable with it, we  
10 can go forward with a public hearing, work out  
11 all the details with your consultants regarding  
12 all the various easements that will have to be  
13 drafted, the notes that we've taken from the site  
14 plan to make sure that everybody knows that this  
15 is how this is to be developed, et cetera.

16 So Lorraine.

17 MS. POTTER: Good evening.

18 CHAIRMAN EWASUTYN: Just for the record  
19 would you give your first and last name.

20 MS. POTTER: My name is Lorraine  
21 Potter, I'm with Lanc & Tully Engineering.

22 As Mr. Cappello briefly explained, we  
23 are -- basically the site plan is remaining the  
24 same with a few minor changes.

25 What the applicant is proposing is to



1                   reduce the number of units from 104 to 103, and  
2                   he would like to propose eight to ten flats which  
3                   would be, instead of two-story condominiums,  
4                   making eight of them or ten of them possibly  
5                   flats which would be single -- a unit on the  
6                   first floor and a unit above. Those buildings,  
7                   the four of them that I am aware of, would be  
8                   this building, this building, building number 8  
9                   and building number 12. There would be the two  
10                  up and down units here and one on the side.

12                 The building units themselves have not  
13                 changed as far as the specific architecture. I  
14                 was hoping the architect would be here to explain  
15                 a little bit about that to you. The buildings  
16                 remain in the same places. There's a little bit  
17                 of minor grading changes, and that was due to the  
18                 driveway locations and also taking into  
19                 consideration Ms. Bahren's comments regarding  
20                 making the sidewalks to the units a little more  
21                 aesthetically pleasing and working with that.

22                 Otherwise, basically we have not  
23                 changed any of the utilities. The drainage  
24                 facilities and the landscaping has all remained  
25                 the same.

CHAIRMAN EWASUTYN: Comments from Board Members at this point. Frank Galli?

MR. GALLI: What's the purpose of changing over four of the buildings to flats instead of keeping them condos?

MS. POTTER: As far as I know it was -- it had to do with the square footage of each of the units. That's what I was told. By doing that we reduced a couple of the buildings as far as the length but increased the size of the unit itself.

MR. GALLI: Are they still going to be -- I'm confused a little bit. They're still going to be for sale as condos?

MS. POTTER: Yes. They'll all be --

MR. GALLI: Just one on the bottom and one on the top?

MS. POTTER: Yes. As I said, specifically it would be this unit, this unit, this unit and this unit. There may be one other. Unfortunately the architect is not here and I'm not sure if there was another unit that was being changed that way.

MR. GALLI: Does that change anything

1 on the code, Jerry?

2 MR. CANFIELD: I'm sorry, Frank?

3 MR. GALLI: Does that change anything  
4 on code, the flats instead --

5 MR. CANFIELD: Yes. The building code  
6 doesn't use the term condo, so they'll be  
7 constructed as townhouses which is one unit up  
8 and down with a separation wall, or if not then  
9 there's a requirement for them to be sprinklered.  
10

11 MR. CAPPELLO: We'll submit the  
12 building plan. For purposes of the site plan and  
13 this review, the footprint is really not  
14 changing, just a few of the units.

15 Also I think Marshall reminded us that,  
16 you know, I think they wanted to offer a few of  
17 them to be able to be more efficiently handicap  
18 units, especially the first floor, to have units  
19 that are accessible with just one floor and no  
20 stairs within the unit.

21 MR. GALLI: That's all I had, John.

22 CHAIRMAN EWASUTYN: Ken Mennerich?

23 MR. MENNERICH: No questions.

24 CHAIRMAN EWASUTYN: Joe Profaci?

25 MR. PROFACI: Nothing.

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CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I had a question in reference to the building of the forty-fourth unit. I'd like to know if there's a time span for establishing the rec center and all that to be done?

MR. CAPPELLO: It's not the time, it's a unit. So before the forty-fifth CO -- forty-fourth or forty-fifth CO is issued, the recreation facilities would have to be in place.

MR. DONNELLY: John, that's what we had in the original site plan approval. What was discussed at work session is now that this is being phased, because back then it was a one-phase project, the Board was wondering whether we should also put a time limit on when that must be built, because now there's the possibility that further phases might not be built and therefore the rec facilities wouldn't be built at all. I don't know what that timeframe is or how you feel about it but it was something the Board wanted to discuss.

MR. CAPPELLO: I think the real question would be, and we wouldn't mind

1 discussing it at the public hearing, but if for  
2 whatever reason there's only twenty-two units  
3 there, because they would be the only members at  
4 that point of the HOA, you know, so there would  
5 only be twenty-two people, they would have to  
6 finance that entire recreation facility. So that  
7 didn't -- that was part of the reason for picking  
8 forty-four. There will then at least be  
9 forty-four unit owners contributing to the upkeep  
10 and construction of those recreation facilities  
11 versus twenty-two. It may be difficult, you  
12 know, for whatever reason. Obviously the  
13 developer hopes the second, third and fourth  
14 phases are built fairly quickly. The upkeep and  
15 maintaining those recreation facilities as such  
16 with only twenty-two units will be probably  
17 pretty difficult to achieve. A twenty-two unit  
18 condo likely wouldn't need that much recreation.  
19 Maybe if we put a condition in there that if so  
20 many years down the line the second phases are  
21 built, that the applicant would have to come in  
22 and -- to the Planning Board to propose some type  
23 of recreation, maybe not the full recreation.  
24

25 MR. DONNELLY: The fear was you go to

1                   forty-three units and then stop. So you're a  
2                   hair's breath away from the critical mass that  
3                   the Board felt was appropriate for rec  
4                   facilities. I think the Board would like you to  
5                   give it some thought, see if there's a way to  
6                   address that issue. It can be discussed in the  
7                   public hearing domain, and that's fine. We're  
8                   really more concerned with people who aren't here  
9                   yet who might buy and move in and what it means  
10                  to them. Obviously Marshall will have to announce  
11                  to them in the offering plan that there will be  
12                  recreational facilities at whatever that formula  
13                  is, forty-fourth unit or some time period. The  
14                  Board wants you to give some thought to that, I  
15                  think is what the discussion was, and see if you  
16                  can address the concern that now that it is a  
17                  multi-phased project, that we may not ever have  
18                  those recreational facilities and a number that's  
19                  very close to the number where they felt it was a  
20                  necessity. Maybe it means rolling it back to an  
21                  earlier unit count but one that's still feasible.  
22                  I don't know. Give it some thought.

24                         MR. CAPPELLO: We'll certainly discuss  
25                         it. Maybe we can say so many years or so much

1                   time after the second phase is started. That  
2                   would at least be when the developer starts the  
3                   second phase they'll have to have pre-sold a  
4                   certain number of units. That would bring them  
5                   closer to achieving forty-four. I think we'll be  
6                   at forty-four by the second phase.  
7

8                   MS. POTTER: By the second phase.

9                   MR. CAPPELLO: So this way if, God  
10                  forbid, only the first phase is built, we  
11                  wouldn't have to deal with it but a certain time  
12                  period from the beginning of the second phase,  
13                  then it would make sense because then that's when  
14                  you might get hit with the forty-three and stop.

15                 CHAIRMAN EWASUTYN: Frank, you had an  
16                  additional comment.

17                 MR. GALLI: I think what we're looking  
18                  for is if you get to the forty-third one and  
19                  something happens and the project goes into  
20                  foreclosure for the rest of the property, now the  
21                  forty-fourth one doesn't get built, or they agree  
22                  to build a smaller, as you said, recreation that  
23                  the forty-three can afford. Now someone else  
24                  comes in, buys the project, puts up the  
25                  forty-fourth unit.

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MR. SCHIFF: They're obligated to build  
a rec facility.

MR. GALLI: Build a bigger rec  
facility?

MR. SCHIFF: They take over the plan.  
That's the way it will be written.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Marshall, why don't  
you give us an outline, which is a very important  
part of it, if you don't mind.

MR. SCHIFF: I'm the attorney who is  
going to be writing the offering plan. The  
intent is to file four separate condominium  
offering plans that will control that homeowners  
association. The idea is to have the  
condominiums do as little as possible. In fact,  
they'll probably have no function whatsoever.  
Everything will be controlled by a single  
homeowners association board. All the  
maintenance, all of the collections, all of the  
repairs for the entire project will be done out  
of the homeowners association board, and each  
owner of the condominium by being an owner is an  
automatic member of the homeowners association,



1 and that ownership runs with the unit and can't  
2 be divested. So if somebody is an owner, they're  
3 a member of the HOA, they sell their unit, that  
4 person is a member of the HOA, and the HOA always  
5 exists and maintains everything. It makes it  
6 simpler to keep an overall scheme because you  
7 have one landscaper, you don't have competing  
8 boards, you have one maintenance on the road, one  
9 snow plow guy, one insurance, one person  
10 providing insurance for all the buildings,  
11 they're maintained in a common way, all  
12 controlled by a board that's elected by each of  
13 the homeowners.  
14

15 How we're going to do the elections is  
16 something I have to talk to the developer about.  
17 I've seen it go from -- you can elect anybody who  
18 lives anywhere to the board, to each condominium  
19 will send three members to the board. So you  
20 could have a twelve-person board which would be  
21 three from each, and the board gets bigger as the  
22 additional phases come on. So that's something  
23 that's really open for discussion. I've done it  
24 both ways.

25 So the idea is that the homeowners

1 association is controlling everything and allows  
2 us to comply with New York's condominium law  
3 which is somewhat unique in the country. We have  
4 our own law. We don't subscribe to the uniform  
5 code. So you can't expand condominiums. Once  
6 you have your units, that's it. So you can't do  
7 phases to increase condominiums like you can  
8 those giant projects that you see out in Arizona.  
9 They just keep adding. Here you can't do that.  
10 We do it by creating the homeowners association  
11 which sets a maximum number and that encompasses  
12 everything.  
13

14 MR. DONNELLY: Marshall, what was asked  
15 earlier is assume phase I is done and the worst  
16 case scenario is the developer goes belly up and  
17 the other remaining parcel, because I think in  
18 phase I the HOA is going to own the upfront  
19 facility parcel, the first condominium will own  
20 the lot to be developed and the developer will  
21 own the balance of the land. If he disappears  
22 and that goes for a tax sale, what ensures the  
23 Town that this project moves forward?

24 MR. SCHIFF: When the first condominium  
25 unit is sold the declaration for the homeowners

1 association gets recorded against everything. So  
2 whoever buys that piece of land buys subject to  
3 that declaration and can only develop the  
4 property subject to that declaration. So that  
5 declaration is going to say that that rec  
6 facility has got to be built when a certain  
7 number of units are sold. So if you are the  
8 lucky guy who buys with forty-three units sold,  
9 you get to build the rec facility when you build  
10 the first unit.  
11

12 MR. DONNELLY: And the only way that  
13 can change is if everybody that's a member of it  
14 and the Planning Board all agree to make some  
15 changes in the further phases of the project?

16 MR. SCHIFF: That's right. You have to  
17 come in to the Planning Board to get a change to  
18 the site plan. You need eighty percent of the  
19 unit owners to amend the declaration. It's a  
20 very difficult process.

21 CHAIRMAN EWASUTYN: Further comments  
22 from Board Members?

23 MR. GALLI: No.

24 CHAIRMAN EWASUTYN: Ken Mennerich?

25 MR. MENNERICH: A hypothetical

1 question. In the initial phase the buildings get  
2 put up and then years go by before another  
3 building is put up. If the first building's roof  
4 goes bad, how is that going to be funded?  
5

6 MR. SCHIFF: Well everyone gets to pay  
7 for it. That's just the way it is with a  
8 homeowners association. It will be building in  
9 reserves. My guess is that the developer will  
10 want to get Fannie Mae and FHA approval. Their  
11 requirements today are quite strict. They  
12 require ten percent reserve, meaning ten percent  
13 to your budget has to be a reserve for whatever.  
14 We don't even know what it's for. So that's  
15 going to be sitting around and to be used for  
16 that. If they need to raise funds they can  
17 assess just like -- or they can have reserves  
18 built in to accumulate anticipating things like  
19 siding and roofs. The roofs probably have a  
20 twenty-five year life and the siding probably has  
21 thirty or thirty-five. Assuming we're twenty  
22 years down the road and these are twenty years  
23 old but these are only ten years old, I think  
24 that's your question, these people aren't  
25 contributing to this. In ten years when these

1                   need to be done, they have a ten-year old roof,  
2                   they're going to pay. That's just the way it is.  
3                   The reason to do that is you don't want these  
4                   guys needing a roof but they don't want to spend  
5                   the money. Now you have guys here whose units  
6                   are worth more because they look better and  
7                   everyone who goes into the community has to pass  
8                   this and it looks like a slum and they can't make  
9                   them do anything. So by having the homeowners  
10                  association maintain everything, you maintain the  
11                  standards for the entire community.  
12

13                   MR. MENNERICH: Thanks.

14                  CHAIRMAN EWASUTYN: Are we fortunate  
15                  enough to have the architect here? Give your  
16                  name for the record, and your company.

17                  MR. TERACH: Barry Terach, T-E-R-A-C-H.  
18                  It's Pendergast & Terach.

19                  CHAIRMAN EWASUTYN: Do you have a  
20                  business card by chance? Maybe for the  
21                  stenographer, to accommodate her. Thank you.

22                  Barry, they were saying you could pull  
23                  a rabbit out of a hat.

24                  MR. TERACH: Is that what they're  
25                  saying?

1  
2 MS. POTTER: I explained that several  
3 of the units would be flats.

4 MR. TERACH: Right. Well I don't know  
5 the discussion that's taken place so far.

6 MS. POTTER: Just minimal. One of the  
7 questions is why are we doing that. Is it for  
8 the building, the square footage of the units.  
9 John brought up the fact that it's also for the  
10 handicap, the lower units.

11 MR. TERACH: Yeah. I think as time has  
12 gone on the developer has found that he's  
13 receiving a demand for flat units. Not a huge  
14 demand but a notable demand. Some empty nester  
15 type things. The way the project was previously  
16 designed there were none at all. We have about  
17 ten percent now flat units. There's five pairs.

18 I brought the elevations also. We can  
19 kind of play the game I dare you to find the flat  
20 units. They're pretty much designed to blend in  
21 with the duplex units seamlessly. We have ten  
22 flats. They're a similar size, similar square  
23 footage, just a little more accessible to the  
24 occupants.

25 They are going to be designed with,

particularly the first floor units, will have ADA conformance, wider doors, kitchen accessibility, bathroom preparations and things of that nature. So it's really just to broaden the potential market for the units.

CHAIRMAN EWASUTYN: Any further comments from the Board Members on that?

MR. GALLI: No.

MR. MENNERICH: Nothing.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: John?

MR. WARD: That was a good answer.

CHAIRMAN EWASUTYN: Thanks.

At this point we'll turn to -- do you want to show us -- by all means.

MR. TERACH: Yes. These are relatively schematic but real. This would be a typical eight-unit building, a typical eight-unit building. Herein lies a pair of flats. Not to really play the game but it occurs here. The give away is an extra garage.

MR. DONNELLY: The level of the grade on that site.

MR. TERACH: I'm sorry?

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MR. GALLI: The flat unit has an extra garage you said?

MR. TERACH: Well it's a combination of things that occur in this building. It is a unit with a two-car garage over here, and then on the side there's flats and a standard central unit, let's say central duplex. Again, it occurs -- that occurs five times on the site. Five pairs.

MR. GALLI: That's the front of the building?

MR. TERACH: Yup. Street face.

CHAIRMAN EWASUTYN: And the square footage of these units is approximately?

MR. TERACH: 1,800 square feet. I could look up the exact number for you. The upper unit in the flat is actually a little larger because it has the potential for a loft. There is loft space up there. About another 200 square feet.

MS. POTTER: As far as the construction that would be required for the flats as opposed to the side by side.

MR. SCHIFF: We'll need fire protection.



MR. TERACH: It will all be code. We'll review that.

CHAIRMAN EWASUTYN: We'll first turn to our consultants for their comments on the five-lot subdivision. We'll start with Jerry Canfield.

MR. CANFIELD: On the five-lot subdivision, I don't have any issues or I haven't submitted any comments. At the work session, though, we did discuss the access road. I know that's one of Pat's comments. Perhaps he can elaborate on that. But I have nothing outstanding on the subdivision.

MR. DONNELLY: Maybe, John, I can ask a preliminary question.

I take it you're looking for preliminary approval for the entire five-lot subdivision, and then you will come in for final subdivision approval for each phase of the site plan?

MR. CAPPELLO: Well, depending on how the Town bonds or requires the road. If we're able to bond each phase when we go for the building permit. We had discussed potentially

1 just getting final approval and filing --  
2 creating the five lots right from the beginning  
3 with the appropriate notes that we would build  
4 and bond the road as per, you know, the phasing  
5 plan with the emergency access at the end of the  
6 second phase. So I think in that instance we may  
7 just go for all five. Certainly. I mean I know  
8 initially we had said because of the bonding and  
9 because of sectionalizing, but after our meeting  
10 with the assessor and discussing how this could  
11 develop with the HOA and condos, it made as much  
12 sense to create the five lots right now, put the  
13 HOA restrictions in.

14  
15 MR. DONNELLY: In either event, Jerry  
16 and Pat's issue is you have a secondary access  
17 point, but when you get into I think it's the  
18 third phase, now suddenly where your building is  
19 blocking the access way we may need to require  
20 you to complete the loop road to substitute for  
21 what had been the temporary road. There are  
22 questions as to how your phased construction is  
23 going to work.

24 MS. POTTER: May I please address that?  
25 The first phase we were going to -- the first

1 phase is on top of the cul-de-sac here. The  
2 second phase, we were going to bring it through  
3 and have an emergency access at this point. When  
4 we got to the third phase, in the third phase the  
5 road was going to be constructed. So by the time  
6 you're building this third phase, this emergency  
7 access from the second phase would be abandoned  
8 and the loop road would continue through  
9 completely. So you would have your entire loop  
10 road, which is what we had anticipated to do  
11 previously also.  
12

13 MR. HINES: I think the concern is that  
14 the road has to come before the buildings in  
15 phase III because at some point you're going to  
16 lose that access -- emergency access.

17 MS. POTTER: During the construction of  
18 phase III or prior to the construction of the  
19 buildings on phase III?

20 MR. CANFIELD: Prior.

21 MR. HINES: Right.

22 MR. DONNELLY: At least before the  
23 point in the construction where the emergency  
24 access road is cut off.

25 MS. POTTER: Okay.

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MR. HINES: And the concern is that buildings I think 67 through 70 are in the access road. It's just a phasing issue that needs to be resolved.

MR. CANFIELD: The construction of the road should be prior to building in phase III.

MS. POTTER: To building those buildings in phase III. Okay. We will put notes to that effect on the plan.

CHAIRMAN EWASUTYN: Additional comments, Jerry?

MR. CANFIELD: Nothing additional.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Our first comment had to do with metes and bounds for the interior lots which will be forthcoming as stated in your cover letter.

We need some additional details of that temporary access road. We don't have any of that. That is the first time it showed up. I think everyone is glad it's there. We need to show what that's going to be made of, how that's going to function, is there a gate, is there not a

gate. Those kinds of issues.

My next comment had to do with the discussion you had previously of the forty-fourth C of O and the construction of the recreational and improvements. I know this Board has in the past put both a unit count and a time limit and a combination of those to make sure that happens. I think those discussions will continue until we resolve that.

I think that this is a much better layout than we saw the other day with the buildings on individual lots. This seems to be a more conventional subdivision phasing plan for the Board's consideration. I think it works better. That's all we have right now.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: With the metes and bounds, before we can give approval for the project we're going to need a signed and sealed surveyor's sheet and also engineer's stamps on the rest of the site plan.

You guys did update the notes for parkland fees and the landscape bond as requested

last time, and also added the fifty-foot vegetative buffer on the plan.

We discussed the HOA. And just a note that this project was granted a negative declaration on March 30, 2006. I feel the consistency document would probably be the right way to go on this.

We also need to schedule a public hearing.

CHAIRMAN EWASUTYN: Thank you.

Karen Arent, Landscape Architect?

MS. ARENT: Lorraine, how are you proposing to make sure that the future phases, like for example stockpiles aren't left? Will you be putting notes on the landscaping plan, or on the phasing plan, or will you be referring to the site plan?

MS. POTTER: I saw your comments. I would like to know how the Board would prefer to have the notes. Would you prefer to have them on the subdivision plan, on the site plan or on both so there's --

MR. HINES: The site plan.

MS. POTTER: -- no misunderstanding.

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CHAIRMAN EWASUTYN: I think the best thing is to have them on both.

MS. POTTER: Okay.

MS. ARENT: You also have a note on the site plan that the drainage facilities will be built as needed by the plan -- as needed by each phase --

MS. POTTER: Right.

MS. ARENT: -- and for them to be landscaped.

MS. POTTER: The landscaping is included.

MS. ARENT: And then I noticed that maybe a similar note could be placed on the plan that the mailbox and the pull-off area could be -- should be built -- has to be built as part of phase I even though it's in the HOA lands.

MS. POTTER: Okay.

MS. ARENT: And the cost estimate you submitted for phase I is fine. We just need to see them for all the other phases.

MS. POTTER: I will forward those to you.

MS. ARENT: That's it.

CHAIRMAN EWASUTYN: John, refresh our memory as far as the off-site improvements, the agreement with the Town, what triggers those.

MR. CAPPELLO: Before the thirty-first CO.

CHAIRMAN EWASUTYN: And those improvements, again to refresh our memories, would be?

MR. CAPPELLO: On the Gardnertown/Gidney Avenue intersection we've already dedicated a widening strip to the Town, so the Town now owns -- we purchased a lot that had a home and cut off a strip to give to the Town. The plans were prepared. There's I think funding because of our contributions from the -- is it a Walgreen's or -- Walgreen's and another bank.

MR. HINES: Orange County Trust.

MR. CAPPELLO: Orange County Trust. Both are ready. I think they put up their portion of the funds, so those funds will go towards their portion of the improvements to be built, probably sometime after first phase. We had originally said the forty-fourth unit just to



1  
2 coincide with the rec facilities, but then going  
3 back and forth with the Town Board they wanted it  
4 done a little quicker so we had decided the  
5 thirty-first unit. Those have all been signed.

6 The Town has also, you know, signed and  
7 agreed on the sewer fees. So that's all been,  
8 you know, approved and executed.

9 I think a portion of the payment on the  
10 sewer has already been submitted. So everything  
11 we need from the Town Board I believe, you know,  
12 we have other than the note regarding the traffic  
13 -- enforcing traffic and certain other issues.

14 MR. GALLI: The developer did those  
15 improvements on the road or this gentleman is  
16 going to?

17 MR. HINES: This developer is going to  
18 do them, however there's been some funding from  
19 other developers.

20 MR. GALLI: I know the funding was  
21 there. This developer is going to take on --

22 MR. HINES: I believe that's the case.

23 MR. CAPPELLO: Yes.

24 CHAIRMAN EWASUTYN: Okay. Mike, we'll  
25 make a consistency determination now and set a

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date for a public hearing.

MR. DONNELLY: I believe that's correct. The question becomes do you want to notice it for both amended site plan as well as the subdivision, because inevitably people will want to talk about what's going there?

CHAIRMAN EWASUTYN: What is your recommendation to the Board?

MR. DONNELLY: Because people are going to want to talk about what you want to construct, you might as well also call it a hearing on the amended site plan.

CHAIRMAN EWASUTYN: Okay. Do we need any language as far as a motion for a consistency determination at this point or --

MR. DONNELLY: No. We've done them in the past. We've done them both where you had an EIS and Findings and with a negative declaration. In essence you're saying the negative declaration, based upon the EAF, addressing the environmental impacts stands and there are no new impacts presented by this proposal requiring a further environmental study.

MR. HINES: As a matter of fact, this

loses one unit. So you have less of a unit count.

MR. DONNELLY: That's true.

CHAIRMAN EWASUTYN: I'll poll the Board Members. I believe we could have -- I know we could have the public hearing on the 18th of March which would coincide with the two Metro applications before us, or I think the next meeting after the 18th of March, I believe it's the 1st of April.

MR. GALLI: The 3rd is a Saturday I think.

MR. COCKS: The 1st of April.

CHAIRMAN EWASUTYN: Would the Board like to just set that Thursday aside for three public hearings and work it that way?

MR. GALLI: John, I'm going to be out of town. I'm coming back Thursday. My flight comes in at 7:15.

CHAIRMAN EWASUTYN: Do you want to start the public hearings at 7:15?

MR. GALLI: No. If everybody else is going to be here. I'm going to come -- if the plane is on time I'm going to come right here to

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the meeting.

CHAIRMAN EWASUTYN: I appreciate that.

MR. GALLI: Make sure you have enough people.

CHAIRMAN EWASUTYN: If not we'll have to reschedule.

At this point I'll move for a motion to set the public hearing for the five-lot subdivision and the amended site plan for Gardnertown Commons for the 18th of March.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Lorraine, you'll work with Bryant Cocks as far as the mailing and the notice.

MS. POTTER: Yes, sir.

CHAIRMAN EWASUTYN: Okay.

MR. CAPPELLO: Thank you very much.

The one issue is we will also hopefully have our submission for the architectural review. How much -- while I have Barry here, if we got it in by --

MR. COCKS: For the 18th meeting?

MR. CAPPELLO: Yes. Two weeks or -- would that be --

MR. COCKS: Yeah. The Friday, two before. It's a Thursday. It would be like thirteen days. Thirteen days.

MR. CAPPELLO: Okay. That would be great. Thanks.

CHAIRMAN EWASUTYN: Just let our office know that you're preparing so we can --

MR. CANFIELD: John, I have one question. For the project team I would like to be able to call Barry to discuss these drawings and the construction issues we had talked about earlier. I have your number and I will give you

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a call.

MR. TERACH: Sure. Fire separations  
for the flats?

MR. CANFIELD: Yes. What your design  
criteria is and how you propose to handle that.

MR. TERACH: No problem. Any time.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:10 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: March 8, 2010

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

- - - - - X

In the Matter of

QUICK CHEK  
(2010-04)

Route 9W  
Section 25; Block 5; Lots 1 & 8  
B Zone

- - - - - X

CONCEPTUAL SITE PLAN

Date: February 18, 2010  
Time: 8:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: KEITH CAHILL

- - - - - X

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

MR. PROFACI: The final item on this evening's agenda is Quik Check, Route 9W across from Leslie Road, Section 25; Block 5; Lots 1 and 8 being represented by Jeff Martel.

MR. CAHILL: Good evening. Keith Cahill from Bohler Engineering. Jeff couldn't be here this evening. C-A-H-I-L-L is the last name. I'm representing Quick Chek Corporation.

We submitted a package for concept review. You are familiar with this site. Quick Chek has been in front of the Board before, a couple years ago with a different layout a little bit, and we have come back with a modified layout.

I can go through some of the basic elements to explain it to the Board from a conceptual standpoint. The site, as mentioned, is the old drive-in movie theater site. It's approximately 10.1 acres. What we're proposing is a 6,924 square foot convenience store, it's located in the tan color, in addition to eight fueling positions out in front of the store.

We have a single access point to Route 9W along our frontage and have proposed 69



parking stalls in and around our facility, which is in compliance with the standards.

Just to give you some highlights in terms of a little bit of the changes from the last time we were here until now in this concept. We have rotated the layout of the site basically ninety degrees, having the pumps -- the fueling facility to the north of the building and the side of the building. We've reduced the size of the building approximately 300 square feet and we have two points of entry for the building. The building itself is considered -- the main entrance would be to the north side of the building facing the fueling pumps. We also have an entrance at what I'll call the south side of the building as well to balance the entrance from either the north or south side of the site. We've also located all of the loading associated with building to the rear of the building away from Route 9W so it's not visible from the road.

The other major change to the site is that we've eliminated the car wash for this facility. Previously we had shown a car wash. We have eliminated it at this point.

1                   Just a couple other features in terms  
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3                   of that. We relocated the stormwater detention  
4                   basin to be along the front of the site and had  
5                   landscaped around it, provided some features of  
6                   fencing and stonewalls along the front to enhance  
7                   the visibility of the front of the site, and  
8                   actually screened some of the parking lot itself.

9                   We are not touching any of the wetlands  
10                  on the site that are to the north side.

11                  We aren't requesting at this point with  
12                  this concept any variances.

13                  Just in terms of again the operational  
14                  aspect of it. I mentioned the loading is to the  
15                  rear of the building, the gasoline underground  
16                  storage tanks are in the front of the canopy.  
17                  There's a designated loading area there. In all  
18                  areas in and around the facility there's  
19                  sufficient room for two-way circulation. The  
20                  parking stalls are 10 by 20 around the entire  
21                  site.

22                  I think that gives you an overview of  
23                  what we're proposing for a concept to get the  
24                  Board's feedback.

25                  CHAIRMAN EWASUTYN: Thank you. Your

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first name again was?

MR. CAHILL: Keith.

CHAIRMAN EWASUTYN: Thank you.

Frank Galli?

MR. GALLI: This layout is a lot better than the one you had last time. I think this works a lot better. The layout I think is a lot nicer.

MR. CAHILL: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I also concur with what Frank just said.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm in agreement.  
Nothing else.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I was considering about the screening for the air conditioning units on the top. I would like to know what it's going to be screened by.

It was mentioned in the workshop there's four existing trees, twelve-inch, to preserve them. I didn't see them on the plan right now.

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2 MR. CAHILL: We can locate that to see  
3 if from the grading standpoint we can make that  
4 work, providing a tree well or whatever it may be  
5 to preserve them. We'll have to see where they  
6 align with the proposed improvements.

7 MR. WARD: They were to the right on  
8 the bottom corner.

9 MR. GALLI: The entrance.

10 MS. ARENT: I finally found them.  
11 They're right to the upper side of that driveway.  
12 Go up. Go up the driveway. Go up. Right in  
13 there along the property line. You're showing  
14 them to be preserved on the landscape plan --

15 MR. CAHILL: Okay.

16 MS. ARENT: -- but there's no tree  
17 protection fencing shown around them on the plan.

18 MR. CAHILL: Understood.

19 MR. WARD: Thank you.

20 CHAIRMAN EWASUTYN: Before I turn to  
21 our consultants, I'll move for a motion to grant  
22 conceptual approval to the Quick Chek  
23 application.

24 MR. GALLI: So moved.

25 MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point I'll turn the meeting over to our consultants starting with Jerry Canfield, Code Compliance Officer.

MR. CANFIELD: The Town of Newburgh has a more stringent, strict sprinkler requirement than the New York State Fire Prevention and Building Code. We noticed that on your site you show a two-inch water line servicing the building. I doubt that will be enough to facilitate a sprinkler system. We recommend that you increase that to an eight-inch, and we'd also like to see you add a couple fire hydrants, one

1 on the entrance way just to the east, just prior  
2 to the building, and then an additional one in  
3 the rear of the building, around the southeast  
4 corner in the rear. The second fire hydrant is  
5 basically for additional flushing. There's a  
6 flushing valve to flush because the way you have  
7 that water line routed it's approximately 460,  
8 480 linear feet. So that additional hydrant will  
9 allow you to flush that. Without that there's no  
10 way you're going to be able to flush that line  
11 and get any sediment out of there. Fire  
12 protection wise, that's the only comment we have.

13  
14 Bryant commented, and he'll elaborate  
15 on it also, the fire lanes, the width, they  
16 comply with the fire code.

17 Conceptually, of course, we have no  
18 issue with it.

19 CHAIRMAN EWASUTYN: Pat Hines, Drainage  
20 Consultant?

21 MR. HINES: Our first comment has to do  
22 with some notes on sheet 2 of 17. It looks like  
23 you have some water service, sewer service notes  
24 from the Town combined together there. You have  
25 demolition notes, but what's not in there is a

1 permit is required from the Town of Newburgh for  
2 that from the building inspector's office. That  
3 needs to be added on there.  
4

5 I don't know if the easement to the  
6 property, I think it's Manzo in that lower right-  
7 hand corner, if that's existing or proposed.

8 MR. CAHILL: I believe it's an existing  
9 easement.

10 MR. HINES: If we could get the  
11 documentation on that to Mike Donnelly's office  
12 for review.

13 Our next comment has to do with the  
14 sprinkler system. You need to upgrade the water  
15 service. You have Jerry's comments on that.

16 The plans continue to, as they did last  
17 time, state the sanitary disposal system will be  
18 designed by others, but we need that in our  
19 application -- in the packet for approval. That  
20 will be a requirement.

21 It's going to need Health Department  
22 approval based on the flows I believe will be  
23 more than 1,000 gallons a day.

24 There's a detail of a pipe crossing --  
25 several pipes crossing that existing stormwater

1  
2 system crossing the site. I believe at one point  
3 in the stormwater management pond that that pipe  
4 will be exposed. I took a look at some of the  
5 inverts and the depth of the pipe. We need to  
6 check that and make sure those work in  
7 conjunction with the grading plan.

8 We're looking for the finished floor  
9 elevations to be called out on the plans. You  
10 can figure them out by the grading but we'd like  
11 to have them there so they're available for field  
12 reviews.

13 There's a comment on the post and rail  
14 fence. That needs to be shown around the  
15 detention pond. The detail says it will only be  
16 used around the detention pond. I think it's  
17 consistent with what you're proposing on the  
18 stormwater management facility.

19 I know Karen will talk about the  
20 stonewall and the gaps in the stonewall and the  
21 fencing. That needs to be coordinated, whether  
22 the stonewall can be considered the fence or not.

23 There's some comments on the details  
24 which I know your office has and can clean those  
25 up.



Your catch basins show paved inverts similar to a sewer manhole. The Town requires sumps as part of their MS-4 requirements and the stormwater management requirements in the Town. They'll all need to have sumps for maintenance.

I have some comments on the stormwater management facility and the leaf composting filter system that you have proposed, which I think your office has these. I don't know if you have them. Those are usually an off-line system and you have them inline with your main stormwater management. So I don't know if that's consistent with what is accepted by DEC for that use of that type of filter system along with your main stormwater management quantity control. You need to take a look at that along with all the design guidelines for that practice out of the stormwater manual.

We're going to need some enforceable map notes which my office can provide in the future stating that that facility will need to be inspected annually and submission to the building department will need to be submitted, a certification.

I have some other technical comments on the stormwater which we can address as you go along.

CHAIRMAN EWASUTYN: You also mentioned Jim Osborne and the Town.

MR. HINES: I was contacted by the town engineer and the highway superintendent regarding a drainage issue, I initially thought from this site but it's actually onto this site from Cherry Avenue which is the property located on the upper area of your map, those residential parcels. I'll be meeting with them I think Tuesday afternoon to take a look at that. I'll get the results of that meeting to your office if there is an issue. I know it's located well upgradient of your site. There are some issues there and I'm going out with the highway superintendent. I just wanted to make you aware that will be coming up.

MR. CAHILL: Thank you.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Sure. As mentioned, I like the site design a lot better too. This actually conforms to the Town of Newburgh design

1 guidelines. They do have a picture of what they  
2 feel a gas station might actually be, the exact  
3 configuration. I'm glad that the site was  
4 revised to match that.  
5

6 As mentioned, this is an allowable use  
7 in a B Zone. No variances are going to be  
8 required. They have shown the sixty-foot buffer  
9 as required by the zoning law. They provided  
10 sixty-nine parking spaces while sixty-eight are  
11 required.

12 As Jerry mentioned, all the drive aisle  
13 widths are in conformance with the 2008 New York  
14 State Fire Code.

15 The applicant has provided a letter  
16 from the ACLE regarding the Federal wetlands.  
17 There's not going to be any disturbance so  
18 there's no permit necessary.

19 In the future could you just provide  
20 colored architectural drawings for both the  
21 building and the proposed freestanding sign for  
22 Architectural Review Board approval.

23 The stonewall is shown at thirty inches  
24 in the detail. That should be shown at thirty-  
25 six.

The privacy sides for the dumpster enclosure should be labeled with whatever color it's going to be.

The lighting plan shown shows a sixteen-foot six-inch light fixture which is also in conformance with the Town design guidelines. They did provide a candle diagram showing little or no light spillover.

Since this is the first time this new application is before the Board, the Planning Board is going to have to declare their intent for lead agency under SEQRA. It's a coordinated review and it's going to need to be forwarded to the DOT, the Orange County Planning Department and Orange County Health Department.

Also, in the EAF you guys stated there was potential for a threatened or endangered species on the site. I think we're going to need some type of letter from a biologist saying that there are no threatened or endangered species. There's a new lawsuit in New York State stating that you kind of have to explore that further. You can't just take the information off the DEC website anymore. I think that's just going to

need to be explored. That was all.

CHAIRMAN EWASUTYN: Karen Arent,  
Landscape Architect?

MS. ARENT: I concur with everybody  
else, it's a nice site design.

When you're figuring out your stone --  
you did show stonewalls on the site. You might  
just want to do a couple of quick section views  
or something just to make sure your stonewalls  
are at a nice elevation in relationship to the  
drawing. Just make sure on the end it looks as  
good as what we're anticipating.

And then the -- something you have to  
think about is whether or not you will increase  
the height of the stonewall to four feet to serve  
as a barrier for the stormwater management basin.  
And, if so, you have to carefully figure out the  
details so there's no foot holes between where  
the stonewall meets the fencing that's required,  
or to consider placing the fencing at a lower  
elevation so it's not viewed right above the  
stonewall. As possible, while still providing  
protection during the high water when the  
stormwater management area fills up with water.

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QUICK CHEK CORPORATION

86

Make sure your plans show that -- the plans clearly show the clearing limit line.

I also noticed that there's a big swale cutting through the wooded area to take the water away from the leach field, and I was wondering if that swale could be routed closer to the leach field. By cutting a twenty-five foot swath through the woods you're endangering the trees on both sides because you're really cutting the roots of the trees. So I was wondering if you could look at maybe routing the swale closer to the west side of the leach field so that we don't disturb that whole chunk of woods.

MR. CAHILL: This is --

MS. ARENT: Can you show the Board.

MR. CAHILL: Sure. This is where we're referring to. We could look into that. The reason that was driven by that is there's an existing pipe and headwall that cuts across our property. The water goes there now and the headwall is located in this area. It we cut it out here --

MS. ARENT: Right. It might not work.

MR. CAHILL: -- we would miss the

1 headwall. Either we eliminate some section of  
2 pipe or move the headwall further to the north.  
3 That may be able to be achieved if we're capable  
4 of doing that. We'll look into that.  
5

6 MS. ARENT: Okay. I don't know if it  
7 would be possible to hand dig in there that  
8 length of woods to get your swale, if that would  
9 be enough.

10 MR. HINES: I think we can work to  
11 relocate --

12 MS. ARENT: That would be great.

13 MR. CAHILL: We'll look at trying to  
14 relocate it and still provide --

15 CHAIRMAN EWASUTYN: People gave up hand  
16 digging seventy-five years ago.

17 MS. ARENT: That is true. It would be  
18 rough. Sometimes when they do that around the  
19 leach field they do hand dig them.

20 CHAIRMAN EWASUTYN: The only  
21 appropriate thing people do with their hands and  
22 tools is stand to lean against them.

23 MR. GALLI: Is that that pipe that's  
24 going to be above ground after they excavate?

25 MR. HINES: Yes. Based on their

current grading. Their grading is going to need to be modified at that crossing.

MS. ARENT: Show the tree protection fencing around the four trees we talked about.

Specify the color of the retaining wall by the wetlands. Ideally it would be a naturalistic color so it blends with the nature and doesn't call attention to itself.

Then I noticed your fencing for the stormwater management basin, the gates, they line up right with the planting area. If you had to get in there with a machine you would drive over the plants. If you'd move it so it lines up with the lawn area, then the landscaping wouldn't suffer if they had to get in to --

MR. CAHILL: Okay. We've provided a depressed curb so we can get in. No problem, we can move it.

MS. ARENT: So it's centered on the lawn so you don't have to like go around that.

To reconsider the Ash trees since the Ash -- Emerald Ash borer is making its way to our area and basically wipes out all the Ash trees if it gets into our area. A lot of people are not



planting any more Ashes because of that.

MR. CAHILL: Okay.

MS. ARENT: And then some of the landscaping along the front of the parking area, if you can consider maybe moving that like five feet away from the edges so that -- two reasons, so it has room to grow. Some of those plants are wide spreading plants. Another reason is so when they grow it's not right on top of the plants. You may reconsider the Boxwood selection because they get damaged if snow is dumped on them. They're weak and they break easily. The Junipers are a good choice because they can tolerate that better than Boxwoods.

We talked about possibly adding a little bit of landscaping in five areas, and one of the Planning Board Members had a great idea. Some of the landscaping you're showing, the shrubs along the back portion of the site along the parking area and also the shrubs on the south side, the line of shrubs that you're showing, you don't really need those because you're not really -- the woods are screening the parking from the neighbors. You could take those out and give

some more landscaping up front in those spaces that are recommended in my memo.

Your detail of the stonewall has to be redone because you're showing one flat rock on top of another flat rock and they're usually not built like that. They're usually built one flat rock and two smaller rocks and then another. So look at that detail.

MR. CAHILL: Okay.

MS. ARENT: It could be built like that but it would be really expensive to get all the flat rocks that would be the same size.

I also noticed that the wall was twelve to eighteen inches wide and it has to be at least twenty-four inches wide if not, you know, even wider.

CHAIRMAN EWASUTYN: Okay.

MS. ARENT: And that's about it. The other comment was just about what John mentioned about showing us how you're going to screen the mechanical units. Make sure that's shown on the architectural drawings and spelled out in detail.

Also, include the signage chart that just calculates your signage. That includes

logos. And that's it.

CHAIRMAN EWASUTYN: At this point I'll move for a motion to declare our intent for lead agency, to circulate to the Orange County Planning Department and to do a coordinated review.

Keith, if you work with Bryant Cocks, our Planning Consultant, as far as the necessary material that we'll need to circulate and we'll begin to set the clock on this.

MR. CAHILL: Okay.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you.

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QUICK CHEK CORPORATION 92

MR. CAHILL: Thank you.

MR. WARD: John, was it mentioned about the demolition permit?

CHAIRMAN EWASUTYN: That will become part of it.

(Time noted: 8:32 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: March 8, 2010

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

- - - - - X

In the Matter of

DILEMME & SONS, INC.  
(2006-2)

Request For a One-Year Extension of Site Plan Approval

- - - - - X

BOARD BUSINESS

Date: February 18, 2010  
Time: 8:32 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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

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DILEMME & SONS, INC.

94

MR. PROFACI: We have a few items of Board Business. The first one is Dilemme & Sons, a request for a one-year extension which was granted on March 28, 2008.

CHAIRMAN EWASUTYN: I would move for a motion to grant a one-year extension for the lands of Dilemme to March 28, 2011.

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: A second by Frank Galli. I would ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Bryant, you'll send out a letter.

MR. COCKS: Yes.

(Time noted: 8:33 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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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

DISCUSSION OF AMENDED SITE PLANS FOR  
TELECOMMUNICATIONS TOWERS AND CO-LOCATION OF ANTENNAS

- - - - - X

BOARD BUSINESS

Date: February 18, 2010  
Time: 8:33 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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



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BOARD BUSINESS

MR. PROFACI: We have the discussion of amended site plans for telecommunication towers and the co-location of antennas. Is there an easier way to streamline these applications?

CHAIRMAN EWASUTYN: What we're really talking about here is the example of the panels that we just had on Valley View and Quaker. Also the microwave dishes that we reviewed.

The way the telecommunication law has been written is that the same threshold applies to adding a microwave dish on an existing monopole as it would for setting a new monopole. So the fees and the whole process is continuous.

Maybe through Jerry and the help of Mike Musso we could come up with a recommendation to the Town Board that, as an example, would allow an application for a microwave dish, for a change of an existing panel to go to the building department, the building department would look at it, then refer to Mike Musso who then would act as the consultant to the building department. Tilford has what is called a T-88 account which he could -- they could establish a fee schedule

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BOARD BUSINESS

and this would be something that would be reviewed as a building permit through the building department.

Mike.

MR. DONNELLY: I think that might be workable, unless there were structures on the ground that might need landscaping or screening that might trigger it as a site plan. Even in that event, if it were just a site plan and not a special permit, it wouldn't always need a public hearing. Under State law special permits always require public hearings, site plans do not. In your own code you have optional public hearings on site plans. So if you had a co-location as either a building department based permit or if it had some other trigger, like the need for a landscaping site plan but not all the way up to special permit, that might help to streamline it. The other way might be, and it's probably not workable as the applicant doesn't want to pay for the analysis, when the tower is first approved, approve it for X number of arrays and X number of square feet of ground-based equipment so that you don't have to go through the analysis again. But

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BOARD BUSINESS

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I think you still need Mike to look at radiofrequency and demonstration of need and that type of thing. So, you know, your suggestion is probably a better one than what I was thinking of.

CHAIRMAN EWASUTYN: It would be good if you were to outline what you just presented as a beginning point for when Jerry and Mike Musso get together --

MR. DONNELLY: Okay.

CHAIRMAN EWASUTYN: -- that way we would have a broader look at what the issues may be - --

MR. HINES: You could go -- your clearing and grading ordinance has a hierarchy of the initial threshold at the building department, some kind of minor wireless communication permit, and a threshold where it has a site plan and the next where it needs a full review by the Planning Board.

CHAIRMAN EWASUTYN: -- which would be the site plan and special use permit.

MR. HINES: Right.

CHAIRMAN EWASUTYN: Which would then

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BOARD BUSINESS

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trigger the requirement for a public hearing.

Comments from Board Members?

MR. GALLI: Sounds good.

MR. PROFACI: It's a great idea.

CHAIRMAN EWASUTYN: Bryant?

MR. COCKS: I was just going to say I think another idea is when they originally wrote it these antennas were much bigger, bulkier and shinier so the impact was a lot worse. Coming back to the Planning Board, their thought was if we keep stacking these on top of each other it's going to look ridiculous. Now it's very small, very thin and blends in a lot easier. There's less visual impact so less reason for you guys to look at it.

CHAIRMAN EWASUTYN: Would you say also the way the industry is changing so rapidly that these panels --

MR. COCKS: Every three years. Every three years they're going to replace them. It's going to keep getting quicker and faster and more data that has to go back and forth in a shorter period of time.

CHAIRMAN EWASUTYN: And everything will

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BOARD BUSINESS

101

become outdated and will need to be redesigned.

MR. HINES: The interesting thing we heard tonight was I was surprised that the Verizon antenna required a structural modification to the tower. They did say oh no, the analysis would -- knowing this other one was coming, which makes more sense.

CHAIRMAN EWASUTYN: Thanks. If you could work on something. We have a limited amount of budgetary money for this but we should try and have the Board give consideration to this.

(Time noted: 8:40 p.m.)

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

I, Michelle Conero, a Shorthand  
Reporter and Notary Public within and for  
the State of New York, do hereby certify  
that I recorded stenographically the  
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DATED: March 8, 2010

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

- - - - - X  
In the Matter of

PALMERONE FARMS  
(2005-32)

Building Permits for New Stores

- - - - - X

BOARD BUSINESS

Date: February 18, 2010  
Time: 8:40 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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

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PALMERONE FARMS

104

MR. PROFACI: The last item of discussion is Palmerone Farms, new stores which are looking for building permits. Is the need for more parking going to cause a problem when these new stores open?

CHAIRMAN EWASUTYN: Jerry, I did cut you off during the work session. If you want to continue on with that thought.

MR. CANFIELD: Like we had discussed in the work session, I don't know that currently there's a calculation issue. There's not a violation with the actual parking calculations. I guess the reason we're here is that to make the Board aware of the current situation, the change from one retail area to an assembly or eating and drinking establishment. Like I further explained to you, because I believe the developer initially over planned parking spaces with the occupant loads that we have permitted them to occupy, they're okay calculation wise. I guess it's food for thought for if and when the other pad site comes to be developed.

Now, just before we broke Ken brought an interesting point up. He had said essentially



1                   what authority do we have to limit or restrict  
2                   that last pad site, because it is approved  
3                   already. It's included in this site plan. I  
4                   guess my only response to that would be it's an  
5                   actual numbers issue. Do the calculations comply  
6                   with the requirement, and essentially I think  
7                   that's where we're forced to be. I don't know  
8                   what else we can do. I don't know if the Board  
9                   wants to take such an aggressive action to  
10                  restrict further development, and I think before  
11                  you could do that someone would have to display  
12                  to you that the current condition is totally  
13                  unsafe.  
14

15                         MR. DONNELLY: Yes.

16                         MR. CANFIELD: And I don't know that we  
17                         could do that. I believe it was John or someone  
18                         had said well are they double parking and parking  
19                         on the curb. I don't believe that is happening  
20                         now. The way the parking lot and the driving  
21                         lanes are laid out, it's not permitted because of  
22                         the grade change relative to the parking spots  
23                         and the surrounding area. So that necessarily  
24                         can't happen.

25                         We just felt, in the building

department and the fire inspector's office, that this Board should be aware of what the site has evolved to, where it's at and keeping in mind potentially where it may go.

I don't know, Mike, if you could shine some light on that.

MR. DONNELLY: I think maybe if we've learned that parking is inadequate from a feasibility point of view, maybe then the code requirements should be beefed up, or at least when multiple restaurants are on a single site, that after a certain number of seats then more parking is required per seat. If that's what our experience is. I do agree because it's not a life safety issue, and because the site plan was approved, that we would be on shaky ground when the next or final piece of the puzzle fell into place to tell them they couldn't build it because there was inadequate parking. I don't think that's there.

I also think because it's restaurant parking, when the spaces are full people tend to drive through and go elsewhere. We're not backing traffic up onto Route 300 because no one

1  
2 can get in, people are not parking on the grass  
3 or anything of the kind I don't think. So it's  
4 really to the disadvantage of the landowner and  
5 to the tenants who may not be able to achieve the  
6 business they'd like if it's a detriment to  
7 anyone.

8 MR. PROFACI: Jerry, what about the  
9 fact we didn't know who all the tenants were  
10 going to be in the strip mall area and now we  
11 have another restaurant going in there. Does  
12 that affect the counts at all?

13 MR. DONNELLY: I think the last one was  
14 always identified as a restaurant.

15 MR. CANFIELD: No. In the strip mall  
16 it was retail with one restaurant. Like I  
17 explained before Joe, because they overshot with  
18 what they proposed and designed for, and what we  
19 actually posted occupancy loads for, okay, using  
20 our parking calculation, that's the only thing we  
21 can go by. They're okay. It's either dumb luck  
22 or masterfully designed.

23 MR. PROFACI: Okay.

24 CHAIRMAN EWASUTYN: If I learned one  
25 thing from planning, it goes on to say go back to

Barry who did the architecturals based upon the flats and what we always say, a lot of things are market driven. So someone could start out saying this 12,000 square foot retail building, my proposed use is to have four tenants and it's market driven and turns out that there's five or six tenants. That could be driven by market demand, it could be driven by the fact that people don't want to pay the price for that much square footage so he has to cut the parcel up into smaller pieces so he can get people to cover his operating expenses.

MR. MENNERICH: Can I just add one thing? From a planning sense we've always been concerned about getting too much blacktop and too much parking. Well, now I think we also have to be concerned about developing projects where there isn't sufficient parking so that the people are just circulating around. I don't think that makes good planning sense either. So I think -- I'd be interested to see what Ken Wersted had to comment on this relative to this situation. Depending what he says, I think we should be going to the Town Board and saying next time you

1  
2 update zoning maybe this is what should be looked  
3 at and changed.

4 CHAIRMAN EWASUTYN: I don't disagree on  
5 what you're saying. The problem is we don't have  
6 the money to pay for Ken's study. And I just --  
7 I agree with you.

8 MR. MENNERICH: Well maybe you could  
9 just offhand comment.

10 CHAIRMAN EWASUTYN: I know what you're  
11 saying. I'll have to talk to you about the  
12 minutes for this at another time.

13 MR. DONNELLY: If we had this type of  
14 development again I would suggest that I include  
15 in your resolution a condition that says that the  
16 approval was granted upon the mix of tenancies  
17 shown on the approved site plan and any change in  
18 that mix of use may require an amended approval,  
19 particularly in regard to traffic demands.  
20 Usually we've tried to look at the highest  
21 traffic generators, and maybe we didn't do that  
22 here. I could include a condition.

23 MR. CANFIELD: To comment on what Joe  
24 had said, and John, you're all right, you're a  
25 hundred percent correct. In this ever changing

market condition someone will put up, and we've seen it hundreds of times, a strip mall, retail or flex space. What does that mean? In planning terms it's understandable the site plan gets approved it says 12,000 square feet of retail space and they show you three occupancies. The footprint of the building is 12,000 square feet and it ends up with seven occupancies but the footprint doesn't get any bigger, parking calculations are based on so many per square feet. Not occupant load, square feet. That really doesn't matter and it doesn't impact you that much. What perhaps we could look better at in the future, though, is the potential for these smaller occupancies. Again, it's very difficult because a developer may not know at the time of the presentation the volume. Like we had discussed, the Verizon store is a very high-volume tenancy. Not a whole lot of square feet. Perhaps 1,500, 2,000 square feet. Parking calculations would be minimal but in actuality the use and the requirement and the frequency of customers in that store are much greater than our parking calculations take into consideration.

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But perhaps, yeah, our parking calculations may be a little outdated. What I think from a planning point of view is we could take a better, closer look. What always creates issues for us in the building department is when we change the uses, okay. Again, obviously there's code requirements. If there's a change of use, that triggers other mechanisms and we can get it back before this Board. In the scenario just like this strip mall, okay, if they change the uses and it's a part of a complex, it impacts down the road because parking calculations change.

CHAIRMAN EWASUTYN: And to summarize it, again because I'm limited as to where I can pay for all the minutes on this, and again I mean I have to manage the office and there's another end of it that none of you understand the way I have to understand it. So the more lengthy your conversations are the more difficult it is for me to pay for these things.

What you always learn at any New York State Planning Federation is that the comprehensive plan, the master plan is a living document and every so many years the Town Board

has to go back and look at things. If there's a summary to this, then every now and then we put together these bullets and we refer it to the Town Board to give consideration and start looking at them. I apologize but money is a problem.

Anything else?

MR. MENNERICH: I think we'll have to stop talking here, even though it's going to affect Michelle's livelihood here.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of the 18th of February.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Frank Galli and a second by Ken Mennerich. Roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:49 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: March 10, 2010