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

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In the Matter of

THE MARKETPLACE AT NEWBURGH
(2004-54)

Route 300 and Route 52
Multiple Section, Block and Lot numbers
IB & R-3 Zones

----- X

AMENDED SITE PLAN

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

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

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

APPLICANT'S REPRESENTATIVE: JOHN BAINLARDI

----- X

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

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2 MR. BROWNE: Good evening, ladies
3 and gentlemen. Welcome to the Town of
4 Newburgh Planning Board meeting of March 1,
5 2012.

6 At this time I'll call the meeting
7 to order with a roll call.

8 MR. GALLI: Present

9 MR. BROWNE: Present

10 MR. MENNERICH: Present.

11 CHAIRMAN EWASUTYN: Here.

12 MR. PROFACI: Present

13 MR. WARD: Present.

14 MR. BROWNE: The Planning Board has
15 professional experts that provide reviews and
16 input on the business that's before us,
17 including SEQRA determinations as well as
18 code and planning details. At this time I
19 would ask them to introduce themselves.

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

22 MS. CONERO: Michelle Conero,
23 Stenographer.

24 MR. CANFIELD: Jerry Canfield, Town of
25 Newburgh.

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

MR. COCKS: Bryant Cocks, Planning
Consultant.

MR. BROWNE: Thank you. At this time
I'll turn the meeting over to Joe Profaci.

MR. PROFACI: Please join us in a
salute to the flag.

(Pledge of Allegiance.)

MR. PROFACI: If you have any cell
phones, would you please turn them off now.

MR. BROWNE: Thank you. The first item
of business we have this evening on the agenda is
The Marketplace at Newburgh, project number
2004-54. This is an amended site plan being
presented by John Bainlardi of Balter Partners.

MR. BAINLARDI: Good evening. My name
is John Bainlardi, I'm the Development Manager
for Wilder, Balter Partners. I'm here this
evening in connection with The Marketplace at
Newburgh shopping center project.

When we were last before your Board, it
was this past December, we were reviewing our --
what we're calling the third amended site plan

1 application. At that time your Planning Board
2 Attorney, Mike Donnelly, had prepared a draft
3 resolution for your consideration and an amended
4 Findings Statement for your consideration. We
5 were asked to attend to two final tasks. One was
6 the County referral, which I believe Bryant Cocks
7 had sent off to the County and received back a
8 Local determination. The second was to submit the
9 plans to the DOT for their comments with respect
10 to the traffic-related revisions to the plans,
11 primarily the referral of the third access drive
12 until the project attains 400,000 square feet.
13 The DOT responded back in writing they had made
14 -- had no exception noted with respect to the
15 amendment that's proposed.

17 Additionally, since December we've made
18 a formal application to the IDA, Orange County
19 IDA. That application is for financial
20 assistance. We provided your Board a letter
21 advising you of this application. We submitted a
22 complete copy of the application together with
23 the supporting documents, which included an
24 impact analysis, an economic impact analysis
25 performed by our consultant, Global. It also

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2 contained a letter from a representative -- Todd
3 D'Orio, a representative of Local 17, in support
4 of the application.

5 We have appeared before the IDA. I
6 believe you also have -- you may have received,
7 in the last day or so, a letter directly from the
8 Orange County IDA advising you of their
9 willingness to be included as an involved agency
10 for purposes of SEQRA. Their intention is to pass
11 a resolution at their February meeting to
12 schedule a public hearing on our application.

13 At this time I have nothing further.
14 I'm available for questions if you have any.

15 CHAIRMAN EWASUTYN: Comments from Board
16 Members on either the amended site plan or the
17 proposal before the IDA. Frank Galli?

18 MR. GALLI: You said they're going to
19 have a public hearing on that?

20 MR. BAINLARDI: Correct.

21 MR. GALLI: What is the date on that,
22 do you know?

23 MR. BAINLARDI: They haven't informed
24 us yet of the date. My understanding is that's
25 being --

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MR. GALLI: We'll have a notice of that, John?

CHAIRMAN EWASUTYN: I would think. Mike?

MR. DONNELLY: I would think they would.

CHAIRMAN EWASUTYN: As a matter of record would you notify us?

MR. BAINLARDI: Absolutely.

CHAIRMAN EWASUTYN: We would like to be notified.

MR. BAINLARDI: Yes.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The timeframe that the IDA might render some decision --

MR. BAINLARDI: I would hesitate to venture a guess, but I would think the process would entail a public hearing, which could be open and closed in one evening, it could be extended or left open for public comment for some period of time. After that, then it needs a draft approval resolution. If they decide to approve

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2 the requested financial assistance, whether they
3 approve it in the form that's been requested or
4 modify it in some way, I would imagine that would
5 take at least a few weeks to go through that
6 document. Then they would not be free to act
7 until SEQRA is closed out. As lead agency this
8 Board would need to take some steps in that
9 regard, and then they would be free to go ahead
10 and act and either ratify your findings or doctor
11 them.

12 CHAIRMAN EWASUTYN: Ken Mennerich was
13 away on vacation so he didn't have the
14 opportunity I think to read in depth the
15 paperwork that you supplied. I had an opportunity
16 to read it. There's a limit to what I
17 understand. What I ask of you, the form that you
18 requested, if you could give us an understanding
19 of the form. It's a PILOT program, it's for so
20 many years. If you could walk through it, A, B
21 and C, just so we have an understanding of it
22 right now.

23 MR. BAINLARDI: There's basically three
24 forms of financial assistance that have been
25 requested. The first is an abatement of property

1 taxes. It's in the form of a PILOT agreement, a
2 payment in lieu of taxes. It is in the form of
3 what the Orange County IDA calls a super enhanced
4 PILOT. It's a fifteen-year PILOT. It starts in
5 year one with a 95-percent abatement and reduces
6 annually in 5-percent increments until I believe
7 year ten or eleven and then it -- then speeds up
8 the reduction of the abatement by 10 percent
9 until par in year fifteen. The projection that we
10 had was we were projecting, after consultation
11 with the County and with the local tax assessor,
12 that the taxes -- the increase in taxes on the
13 buildings to be constructed, improvements to be
14 constructed are estimated at \$3 a square foot. So
15 400,000 square feet, if there was no abatement
16 you'd be looking at \$1,200,000 annually in
17 property taxes divided among the County, the
18 Town, the school district and the special
19 districts. Newburgh has a program of 485-B which
20 basically is a reduction of abatement of tax.
21 It's not as extensive an abatement as we are
22 requesting. That abatement, assuming a straight
23 line of \$1,200,000, no inflation factor, you
24 would be looking at approximately a \$3,300,000
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2 reduction over fifteen years. So the fifteen year
3 PILOT that we're requesting would be asking for
4 an abatement of a total of \$9,900,000 over
5 fifteen years. That's basically \$6,600,000 in
6 excess of the PILOT that we otherwise would be --
7 the 485-B abatement that we'd otherwise be
8 entitled to. There is a projection of the annual
9 taxes that would be paid over the fifteen years.
10 If the abatement were adopted, you would be
11 looking at estimated new property taxes with the
12 PILOT over fifteen years of \$8,100,000. So that's
13 the PILOT portion.

14 In addition, the IDA has the power to
15 abate or eliminate sales taxes on the
16 construction materials, so that there would be a
17 savings there on the taxes that would otherwise
18 be paid on those materials to construct the
19 buildings and to do some of the site work,
20 whether it's pipe work, sheet rock and those
21 types of building materials.

22 In addition to that, there's a mortgage
23 recording tax in New York State, and there could
24 be an elimination of any mortgage recording tax
25 that would otherwise be due in connection with

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the recording of a mortgage to finance the project.

So those are the three areas of assistance that we've requested.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: John, if this doesn't work out is there a plan B?

MR. BAINLARDI: That's a question that's hard to answer. The bottom line is we need assistance in order to make this project work. If we don't get assistance, the likelihood is that this project is going to continue to stagnate and maybe never happen. There's a strong likelihood of that. We're trying. You know, we've been here for four years, five years struggling. We've been struggling with the economy, struggling with the legal attacks. We're at a point in time where we have -- we believe we have that nexus of tenants and it's just we're not going to be able to keep the bills in the air for very longer. The time is now and we think that we can go into the ground, we can get a project started, and that project,

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2 once commenced, will have momentum. We believe
3 that, you know, given the current economy and
4 environment, that yes, we're asking for -- we're
5 asking for a reduction of taxes, we're not asking
6 for no taxes. We believe that the sales tax
7 revenues that have been generated by the project
8 are substantial, and we believe that if we can
9 get started we'll create construction jobs for
10 two years. It's an \$80,000,000 first phase
11 project. That's the goal.

12 MR. WARD: Thank you.

13 CHAIRMAN EWASUTYN: Jerry Canfield, any
14 comments or questions?

15 MR. CANFIELD: No. I have nothing.

16 CHAIRMAN EWASUTYN: Bryant Cocks?

17 MR. COCKS: A couple questions on the
18 IDA submission. I read through the report four or
19 five times. It's not my area of expertise but I
20 just had a couple questions regarding the sales
21 tax benefits. Did I read that right, that's a 30
22 percent discount, or is that a full discount on
23 sales tax?

24 MR. BAINLARDI: The 30 percent discount
25 that I believe you're referring to is we took the

1 figures that were included in the environmental
2 impact statement for a projection for sales tax,
3 and the DEIS figure was an average expectation of
4 \$550 per square foot in sales for the project. So
5 we took that \$550 per square foot and we
6 discounted it by 30 percent. We did that for two
7 reasons. One, to be conservative. Two, to account
8 for any potential cannibalization, if you would,
9 of sales that may already be in the -- be in the
10 County and that may find their way to this
11 project. After we took those numbers, you'll see
12 the result being sales tax revenue is very --
13 it's impressive. It's a big number. So that was
14 -- that was the analysis there. That's what we
15 tried to show.

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17 MR. COCKS: Okay. The mortgage
18 recording tax exemption, I didn't see any numbers
19 on that in there. I think it said to be
20 determined. Is that by the IDA?

21 MR. BAINLARDI: The mortgage recording
22 tax in New York State is -- I think in Orange
23 County -- Michael, you may know this -- I think
24 it's 1.05 percent or 1.2 percent. Somewhere in
25 that range. So whatever financing, whatever

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2 mortgage would go onto the property to finance
3 the construction, that would be -- this we would
4 calculate the actual amount.

5 MR. COCKS: Okay. And the property tax
6 reduction, in the DEIS it went into pretty
7 detailed information about the school district
8 and the fire district and gave specific numbers
9 for each of those. Could those be submitted to
10 the Planning Board with the new numbers?

11 MR. BAINLARDI: Sure. Those are
12 calculated in the A&R Global report. I can pull
13 those out if you'd like and put them in the memo.

14 MR. COCKS: Okay. That was it.

15 MR. GALLI: I just have a question,
16 John.

17 CHAIRMAN EWASUTYN: Sure.

18 MR. GALLI: That's for phase 1. What
19 happens in phase 2? Say phase 1 gets off the
20 ground, you build it, you get your IDA. What
21 happens in phase 2? The same thing, you're going
22 to ask for --

23 MR. BAINLARDI: Well, the IDA has asked
24 us to, if we would, consent to a condition that
25 we would not come back and ask for additional

1 financial assistance. Of course you don't know
2 what the user may be in phase 2, and there may be
3 a situation where, you know, the type of use
4 comes in that the Town and the County wants to
5 pursue. It may be free us at that point to make a
6 determination as to whether or not financial
7 assistance would be appropriate. You know, we've
8 indicated that we would not object to a condition
9 that we not come back and ask for assistance.
10

11 CHAIRMAN EWASUTYN: Mike, do you have
12 any questions or answers? Do you want to go into
13 the resolution for the amended site plan?

14 MR. DONNELLY: Sure. Let me start by
15 saying there are actually two things before you,
16 and they are completely separate and distinct.
17 The first is the resolution of approval of the
18 third amended site plan. I point out it's
19 administrative because in December you were about
20 to vote on the same Findings Statement and the
21 same resolution that is before you until we
22 realized we had not sent this to the Orange
23 County Planning Department for a report even
24 though they reported on it earlier. So we put
25 that on the back burner. We've now heard from the

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2 County and they determined that this proposed
3 amendment is also a matter for Local
4 determination.

5 Just for the members of the public
6 present, what is proposed as part of this third
7 amendment to the site plan is a deferral of
8 construction of the project's Route 52/Fifth
9 Avenue access road until the project build out
10 exceeds 400,000 square feet of floor area.
11 Secondly, a redesign of an internal driveway,
12 identified in the site plan as entry A, to permit
13 two-way traffic. Third, a lowering of the grade
14 of the village center by approximately 21 inches
15 on average. And finally, the inclusion of a
16 pharmacy building within the village center
17 proper. Because those things, particularly the
18 access ways, were not included in the Findings
19 Statement because the applicant had always
20 proposed the three access points, although the
21 traffic study in the EIS actually did evaluate
22 the possibilities of one, two or three driveways,
23 the Findings Statement needs to be amended
24 because it declared what the applicant had
25 originally proposed, which was the build out of

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2 all three access points before the first store
3 was to open.

4 So you have before you a proposed third
5 amended Findings Statement. It has not been
6 changed, at least not other than typographical
7 errors as far as I can tell, since December 15th
8 or thereabouts when it was before you last. You
9 do need to take action on that document before
10 you may act on the amended resolution of
11 approval.

12 If you'd like to do that first, I can
13 then walk through the conditions of the amended
14 resolution of approval.

15 CHAIRMAN EWASUTYN: Please.

16 MR. DONNELLY: We can do the
17 resolution. The resolution had, as its first
18 number of conditions as I typically do in a
19 sketch document that I have before me, the
20 possibility there would be outstanding
21 engineering, planning or traffic consultant
22 comments. There are no outstanding comments, so
23 the introductory placeholder conditions of course
24 have no place and will be removed. Beyond that,
25 and I'll go through these quickly, the resolution

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2 will indicate that all of the earlier conditions
3 except as modified here will remain in effect.
4 The EIS and the SEQRA Findings Statement as
5 amended are conditions of the approval. We will
6 note the grant of the ZBA variance. We will talk
7 about the construction deferral and how that is
8 phased in and a series of conditions that modify
9 the conditions of an earlier approval. We talked
10 about the continuing need for Architectural
11 Review Board approval for the future buildings as
12 they come before the Board, which similarly will
13 have some landscaping adjustments around the
14 individual buildings itself. And of course we
15 have our standard condition that nothing can be
16 built on the site plan that is not shown on the
17 approved plans.

18 I think you need to vote on the
19 Findings Statement first and then vote separately
20 on that resolution of approval.

21 We did, as I think I mentioned already,
22 receive the Local determination report from the
23 Orange County Planning Department. There is
24 nothing now that prevents you from acting.

25 CHAIRMAN EWASUTYN: Questions from

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Board Members?

MR. GALLI: Nothing.

MR. BROWNE: On the Findings?

CHAIRMAN EWASUTYN: Yes. That's the first action.

MR. BROWNE: Okay. I have one comment on the paragraph about the additional mitigation for future for the monitoring. As an additional further mitigation measure the applicant has agreed to volunteer the Route 52/Fifth Avenue intersection after the completion and occupancy of the first 200,000 square feet of commercial space and after completion of 400,000 square feet. My comment has to do with that 400,000 square feet. At 401,000 square feet he's already required to do the intersection. With the way this reads, 399,000 he's not required to do that, that study. Is there some way to work that so that whatever that build out is up to that stopping point, that's covered rather than the square feet?

MR. DONNELLY: I think this was a consistent approach we had in the earlier Findings. I don't have the earlier one before me

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2 to look at it. I think the idea was we wanted to
3 say that when they got to the 400,000, which is
4 permissible on the newly configured driveway
5 access, before they could do anything else or
6 build out any more floor space, they would have
7 to do a study on the intersection.

8 MR. BROWNE: The way it currently
9 reads, as I understand it, at 401,000 they have
10 to do the intersection anyway.

11 MR. DONNELLY: They clearly have --
12 yes.

13 MR. BROWNE: So the point is at --

14 MR. DONNELLY: What's the point?

15 MR. BROWNE: -- 400,000 they have to do
16 a study. If they get one foot beyond that they
17 have to put the intersection in.

18 MR. DONNELLY: John may be able to shed
19 light on this.

20 MR. BAINLARDI: I think for
21 clarification, you're correct. Once we have
22 400,000 square feet, in order to get a
23 certificate of occupancy we have to construct. So
24 if we constructed up to 400,000 square feet, we
25 would then, at that point in time, have to

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monitor again.

MR. BROWNE: At 400,000. But one foot below that you don't have to?

MR. BAINLARDI: That's correct.

MR. BROWNE: So a lawyer could come along and say we didn't reach that threshold, I'm at 399,999.

MR. DONNELLY: You would like to see it say 300,000?

MR. BROWNE: I don't know how it could be worded to potentially cover whatever point of completion they get to under that 400,000 where they decide they're going to stop.

MR. DONNELLY: I don't know how the applicant feels. It's not unusual to say something like 80 percent or 90 percent or some target build out the traffic study is done so it's done in anticipation of the allowable first stage build out. You could simply do the arithmetic on 80 percent.

MR. BAINLARDI: That's fine with me.

MR. BROWNE: Do you see where I'm going with that?

CHAIRMAN EWASUTYN: Yeah. Basically

1 we're looking at phase 1, which is 400,000 square
2 feet for a build out, and now we're saying that
3 at a percentage of that 400,000 square feet in
4 phase 1 monitoring will begin. That's --

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6 MR. DONNELLY: Rather than a
7 percentage, let's pick a number. 300? 320?

8 CHAIRMAN EWASUTYN: Rather than being
9 arbitrary and capricious, why don't we make it 80
10 percent of 400,000, --

11 MR. WARD: 320.

12 CHAIRMAN EWASUTYN: -- that way we have
13 a logical --

14 MR. BROWNE: If John has a number he
15 knows what the build out will be for the first
16 phase, then that will give us a better ballpark.

17 MR. DONNELLY: -- the first phase is
18 allowable to 400.

19 MR. GALLI: He can't go above that.

20 MR. DONNELLY: 320.

21 MR. BAINLARDI: That's fine. Does that
22 work?

23 MR. BROWNE: He's already doing it at
24 200,000. Another 120,000 square feet and that
25 gives you some comfort.

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CHAIRMAN EWASUTYN: You want a safe number?

MR. BROWNE: Yeah.

CHAIRMAN EWASUTYN: Okay. And now we're taking questions on the Findings.

Ken Mennerich?

MR. MENNERICH: I have no questions.

MR. PROFACI: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Nothing.

CHAIRMAN EWASUTYN: All right. Mike, for the record I'll move for a motion to approve the Findings Statement presented by our Attorney, Mike Donnelly, on The Marketplace at Newburgh mall for the amended site plan.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

The next action we have, Mike, you'll present it to us, is the --

MR. DONNELLY: Resolution of third amended site plan approval.

CHAIRMAN EWASUTYN: I'll move for a motion for the approval of the resolution for the third amended site plan for The Marketplace at Newburgh Mall -- at Newburgh.

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

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roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Thank you.

MR. DONNELLY: Separately, you have before you the proposal by the developer to seek financial assistance from the IDA. You have a letter from the IDA requesting that you, from this point forward, view them as an involved agency under SEQRA. You have always been the lead agency and you remain the lead agency. You have been given the financial or economic effect workup that Mr. Bainlardi and Bryant spoke of earlier.

The question presented to you is the fork in the road that you've been at before, and that is is there any further supplementation of the EIS required and is there any need to amend your Findings Statement. As you know, the original EIS did address the fiscal and economic

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2 impacts of the project, both those that placed
3 additional demands on the services of the Town
4 and the benefits that were studied in terms of
5 the tax revenues that would benefit the Town,
6 both sales and real property tax revenues. I
7 don't know if mortgage taxes were mentioned in
8 the original EIS. Economic and fiscal impacts, as
9 I mentioned during the work session, are always
10 kind of a peripheral issue under SEQRA. The
11 courts have said quite consistently economic or
12 fiscal issues in a vacuum are simply not within
13 the reach or ambit of SEQRA because SEQRA deals
14 with environmental impacts. They've gone further
15 to say, and this is sometimes a little difficult
16 to get your arms around, that where an economic
17 or fiscal impact will express itself or cause
18 some impact on the physical environment, for
19 instance a change in patterns of population,
20 concentration, distribution or growth, or changes
21 in community character or neighborhood character,
22 then that economic impact is affecting the
23 physical environment and is therefore a proper
24 study under SEQRA. If it's a proper study under
25 SEQRA, it's proper for reach of the imposition of

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a mitigation measure.

What you're presented with is the need to digest the economic impact data you've been given. Consistent with your earlier Findings Statement, you should recite an accurate finding of what that data is and issue an amended Findings Statement so that the IDA can then move forward and issue its decision. If you find in that study that the fiscal or economic impacts, you determine, are themselves having some impact on the physical environment, then you could consider the imposition of mitigation measures. I will also tell you that tax impacts are not, other than under SEQRA in the limited circumstances I've outlined, proper concerns for a Planning Board in exercising its jurisdiction. You can't say I'm not going to approve a church because churches don't pay taxes, you'd rather have a store and so on and so forth. So I think you need do nothing tonight other than to acknowledge that the IDA is now an involved agency. I think you need to take stock of the report you have been given with an eye toward determining whether or not you need to supplement

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2 your EIS in any fashion or to amend your Findings
3 Statement.

4 It was mentioned briefly during the
5 work session discussion that perhaps you need a
6 consultant within that field of expertise to
7 study the report, to analyze it and to give you
8 recommendations as to what your conclusions or
9 findings should be. If that's something, since it
10 was mentioned during the work session, that you
11 want to discuss now, I think that would be the
12 first order of business.

13 CHAIRMAN EWASUTYN: Frank Galli, would
14 you like to see about solicitation for someone to
15 review the information that was presented by The
16 Marketplace in reference to this submission to
17 the IDA and the impacts?

18 MR. GALLI: What, John?

19 CHAIRMAN EWASUTYN: We're talking about
20 maybe having an outside company who is proficient
21 in the --

22 MR. GALLI: Financial part of it?

23 CHAIRMAN EWASUTYN: Yeah. The question
24 is do you want -- I'm polling the Board Members
25 to see if the Members want to have someone else

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look at that report and make a recommendation to the Planning Board.

MR. GALLI: I think it would be helpful to have an outside agency look at it.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Yes, it would be. Very.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I guess I would think that the Town Board would be considering that and it would be more appropriate for them to do it in light of what Mike told us our Planning Board responsibilities are. So I would say no.

CHAIRMAN EWASUTYN: Okay. Joe Profaci?

MR. PROFACI: I would say no also because of what Ken just said. I agree with him. The information that this consultant would obtain would have to show whether or not there's an environmental impact, of course not just recite what the IDA is and what they're applying for. So I do think it's more in the purview of the Town Board.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I agree with the Town Board per this issue.

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CHAIRMAN EWASUTYN: Then at this point we don't have a majority vote to carry having an outside group advise the Planning Board, so we'll table that motion.

Okay. Mike, do we have to make a motion to acknowledge the fact that the IDA now is an involved agency?

MR. DONNELLY: I think to do it by motion at that level of formality is appropriate.

CHAIRMAN EWASUTYN: I'll move for a motion to acknowledge that the IDA now, under SEQRA, is an involved agency in The Marketplace at Newburgh.

MR. GALLI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion -- was that Cliff Browne?

MR. GALLI: Me.

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

(No response.)

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

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MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

MR. BROWNE: Excuse me, John. Would it be appropriate to send something formal to the Town Board to look at the financial impacts?

CHAIRMAN EWASUTYN: I think the Town Board is, you know, in the position that they know how they want to operate. I don't know that it would be our position. I'll poll the Board Members.

Frank?

MR. GALLI: I think you're right. I think they know what they want to look at.

MR. BROWNE: I just don't want to have any loose ends flopping out there that didn't get followed up on.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I would think they're involved in the process.

CHAIRMAN EWASUTYN: Joe Profaci?

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MR. PROFACI: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No.

CHAIRMAN EWASUTYN: Anything else?

MR. BAINLARDI: No. Unless you have any questions of me? Thank you.

MR. SACHS: Mr. Chairman, may I just make sure on behalf of Newburgh Capital for the record, this is a February 29, 2012 letter that will be part of tonight's record.

CHAIRMAN EWASUTYN: For the record, Mr. Sachs, would you give your name and your company?

MR. SACHS: Joel Sachs, Keane & Beane on behalf of Newburgh Capital, the owner of the Newburgh Mall, and several residents of the Town of Newburgh and SOS. We set forth a lengthy letter to the Chairman and Members of the Board setting forth our position with regard to the various issues that you've addressed.

Thank you.

CHAIRMAN EWASUTYN: As a matter of record, I even made a copy for the Stenographer.

MR. DONNELLY: We received it. Everyone has a copy.

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MR. SACHS: Thank you.

CHAIRMAN EWASUTYN: Thank you. It just helps in the timing. I have to make the copies, that's why I'm always so sensitive to it.

(Time noted: 7:34 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.

DATED: March 21, 2012

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

----- X
In the Matter of

MID-HUDSON MARINA
(2010-19)

River Road
Section 121; Block 2; Lot 1
R-1 Zone

----- X

CONCEPTUAL RESIDENTIAL SITE PLAN

Date: March 1, 2012
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN MONTAGNE

----- X

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

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2 MR. BROWNE: The next item of business
3 we have on the agenda is Mid-Hudson Marina,
4 project number 2010-19. This is a conceptual site
5 plan being represented by Chazen Companies.

6 MR. MONTAGNE: My name is John
7 Montagne, Vice President of Land Development with
8 the Chazen Companies.

9 I'll start our presentation tonight.
10 Also with me is George Cronk, one of our senior
11 engineers; and Mr. Cardaropoli, our client. We're
12 here tonight really to bring you up to speed on
13 what we would like to do conceptually on the
14 plan; to talk briefly about the status of our
15 ongoing coordination on the zoning changes, we've
16 reduced everything down to a potential zoning
17 change request; and also update you on the access
18 and therefore the 280-A open space issue.

19 So what I'd like to start with --
20 actually, I'm going to start with George. If you
21 want to put the old plan on here.

22 MR. CRONK: The changes that we're
23 looking at now are primarily to bring the site
24 plan as closely in to compliance with all of the
25 zoning issues that we discussed before to

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eliminate the variance requests.

The first thing that we're looking at is taking our unit design and making this more into a town home type of layout. What you'll see on the top layout are buildings that were more in tune to a condominium cluster and now we're proposing a redesign with an architect we have on staff now that brings those into a town home design.

The second thing is a layout which allows us to get rid of the separation requirements for setbacks between units. So we've removed that request to the Board. We have no request for reduction in buffering anymore. There were some requests before to limit some of the widths for buffering. We no longer are requesting that.

I think one of the main important elements on the marina side of it is we are using the existing access alignment that goes across the tracks and out onto lot 1, which is the lot along the river. We're also proposing a modification to the marina layout, as you can see here, which brings us back into compliance with

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the existing marina.

This is kind of how the existing marina slips are laid out. We're still proposing the pier, still proposing a small facility for managing that.

So the biggest element that is still out there as a request to the Town Board right now is the ability to limit and reduce the number of mandatory boat slips. The biggest thing is that from an economic standpoint right now it's going to be very hard to financially develop a full marina. We want to do it in phases, and we would like to do that in concurrence with moving ahead on the townhouse construction. We are looking at twenty units now. We're not requesting additional unit density anymore.

So generally the two things that are the most important for us this evening is, one, to get a recommendation back from this Board to the Town Board that the only variance request and modification in the zoning language that we're looking for, and actually it would be just a zoning modification, would be the relief on the number of boat slips. All other conditions of

1
2 site plan approval and zoning would remain the
3 same as it's zoned currently. The second one is a
4 positive recommendation on the 280-A access. As
5 you know, the roadway that comes into the site is
6 part of a private easement, a private roadway
7 that comes through. We are proposing that that
8 roadway would be upgraded. We have researched the
9 easement. There is a cut in the drawing right
10 here and a continuation on this back out to Oak
11 Street. I believe you're all familiar with this.
12 Our intent would be to improve the drainage and
13 the surfacing of that road and bring it up to a
14 width that's acceptable both by highway and by
15 fire. I think, you know, that's really what we're
16 looking for this evening.

17 If you have any comments or questions,
18 we'd be glad to answer them.

19 CHAIRMAN EWASUTYN: I'm going to turn
20 to Mike Donnelly, our Attorney, because during
21 the work session there were three points that he
22 brought to our attention, and we still may not
23 have an answer to those.

24 MR. DONNELLY: We have, before the
25 Town, that is various boards, several distinct

1 applications. You have the zone change
2 application to the Town Board, which the Town
3 Board has referred to the Planning Board for a
4 report; you have the open development area
5 application before the Town Board, which the Town
6 Board has referred, under Section 280-A, to the
7 Planning Board for a report; and of course you
8 have the site plan application in conceptual form
9 now that's been submitted to the Planning Board.
10 This is, under SEQRA, an action.
11

12 One of the requirements of SEQRA is
13 before any individual component of an action that
14 has various discrete parts can be acted upon,
15 SEQRA has to be closed out.

16 MR. MONTAGNE: Correct.

17 MR. DONNELLY: This project, as we
18 understand it, had a full-blown EIS at an earlier
19 point in time and a Findings Statement. The
20 project was amended, at least in concept, some
21 years after that, and there was discussion, but I
22 don't know where it went, to amending the
23 Findings Statement, and a chart of sorts was
24 prepared that showed the thresholds that were
25 allowed in the original EIS and how the first

1 amended proposal fell within those thresholds.

2
3 What we need before we can do our part
4 and get our recommendations back to the Town
5 Board, and before the Town Board can act on their
6 two applications, and before the Planning Board
7 can act on the site plan, we need to close out
8 SEQRA. What we have been suggesting is get us a
9 copy of the EIS and Findings Statement, do the
10 exercise that had been done once before, and show
11 us here are the impacts, by category and subject
12 matter, that were studied in the original EIS and
13 show us that you fall within the threshold or you
14 are less than those. Then of course the Findings
15 Statement I'm sure will need amendment because it
16 was addressing a very different project. With
17 those things done, the Planning Board can then
18 make the decision is there a need for a
19 supplemental EIS. It is likely, since the project
20 is greatly reduced in scale and scope, that there
21 will not be. If and only when those things are
22 done can we report back to the Town Board on the
23 two applications they referred to us, only then
24 can the Town Board act on those two applications,
25 and only then can we begin to review the site

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2 plan itself. If for whatever reason the EIS is
3 lost or it's so old as to be not quite useless
4 but not helpful any longer, then what we should
5 do is have you submit a long form EAF and treat
6 that as if it's a new application. I don't think
7 that's superior but if we can't locate that other
8 stuff, that's what we'll have to do. I'm not
9 saying it will need an EIS, I'm just saying we'll
10 have to commence the SEQRA review anew.

11 MR. MONTAGNE: I'm glad that you
12 brought it up in this light. It makes it easier
13 for me to understand and present back to you what
14 I think we can do. In November of 2011 we did
15 submit back to the Board, I believe this Board, a
16 SEQRA comparison. I would ask if that's received
17 and is on file?

18 CHAIRMAN EWASUTYN: I think you made
19 individual copies for everyone in a binder.

20 MR. MONTAGNE: I think so.

21 CHAIRMAN EWASUTYN: You did.

22 MR. MONTAGNE: The intent was that back
23 in 2010 Clough Harbour did a similar exercise
24 that was provided for the Board.

25 CHAIRMAN EWASUTYN: What I don't

1 understand is Clough Harbour did it on the
2 modification that was presented to the Board. Was
3 that on the original Findings Statement?
4

5 MR. MONTAGNE: Correct. Correct. What
6 they had done is the original project was much
7 larger. It was a much bigger marina. A similar
8 process to what we're being asked to look at now.
9 Take a look at the reduced project, compare it to
10 what was evaluated in the original impact
11 statement and identify if there's anything that
12 wouldn't be a greater impact, and, if not, a
13 lesser impact, just to document that. So we did
14 go through that same exact process between when
15 we last presented to you in the summer and in
16 November when we submitted that. So that document
17 now I believe is with you. If you need additional
18 copies, let us know.

19 CHAIRMAN EWASUTYN: We should have
20 additional copies. I do remember receiving it. We
21 all received it in a thin binder.

22 MR. DONNELLY: That's one piece. The
23 other piece -- that's a helpful tool.

24 MR. MONTAGNE: That's the first step.

25 MR. DONNELLY: We need the EIS and

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Findings.

MR. CRONK: We do have the EIS. Would you like --

MR. MONTAGNE: Full copies of that?

MR. CRONK: Or PDF copies?

CHAIRMAN EWASUTYN: That's a good question. I think we probably want PDF copies for the majority. I'll have the Board Members speak for themselves.

Frank?

MR. MONTAGNE: What we could do, just to offer it, is give you two full printed copies if you want to reference it and give everybody PDF files on CD so you could review it on the computer.

CHAIRMAN EWASUTYN: Bryant, you'll take a full copy or do you want a PDF and we'll take a full copy in the office?

MR. MONTAGNE: Then you would have all of the previous EIS documents. We would also include in there the Clough Harbour analysis they did just so you have that history, chronological history. You have our summary now that appends that again.

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Then I think the last thing is the Findings. Would you like us to look at those Findings or is that something that you would do?

MR. DONNELLY: I think it would be helpful if you gave us a copy of the existing one and then you take a first crack at how they would need to be amended so we would have a document to work with.

MR. MONTAGNE: Do we have the Findings?

MR. CRONK: That I don't know. We'll have to get a copy.

MR. MONTAGNE: That's one thing I'll have to do is whether or not we have in our possession the Findings. That should have been a Town record, so --

MR. DONNELLY: If you don't, let us know.

CHAIRMAN EWASUTYN: We're going to re-look in the Planning Board office but at first glance we didn't find it.

MR. MONTAGNE: I think we can come up with that. So then we'll get that to you as soon as possible. Hopefully we can do it within the timeframe of maybe the next Board meeting so that

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we can at least get to the point where then we can go back to the Town.

We're looking for I think from you tonight whether or not you feel our concept is something that we can continue to explore, because that might affect any modification we would make to this draft of the comparison.

CHAIRMAN EWASUTYN: The only question on the concept -- the concept is fine for now. Jerry Canfield raised a question that could have a great impact on the concept.

MR. MONTAGNE: That we received today. That was the one question on the building code, whether we have a separation issue from the tanks.

MR. CANFIELD: Yes, that's correct.

MR. MONTAGNE: That was one. Obviously the other one is we are actually looking, on the concept, for some feedback from fire. I think we actually have that back. We know what you're looking for.

CHAIRMAN EWASUTYN: What is the height of the proposed buildings? Pat Hines, the height determines the road width?

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2 MR. MONTAGNE: If you're over 30 feet,
3 that's when you would require a 26 foot width
4 instead of 24. We've done conceptuals on these
5 buildings with the architects we have right now.
6 I believe we're going to be below that 30 feet.
7 We're looking at probably two floors plus a
8 basement.

9 CHAIRMAN EWASUTYN: You had a question
10 on the emergency access, the width of that road.

11 MR. CANFIELD: The secondary access to
12 the south.

13 MR. MONTAGNE: That's this one coming
14 up through here.

15 MR. CANFIELD: Currently it's 8 feet. I
16 believe that needs to be increased to 20 feet
17 also in width. The fire code permits the
18 authority to have the jurisdiction to require
19 that secondary access, which I'm taking that
20 position. We'd like to see it increased to 20
21 feet in width as well.

22 I spoke with George today on the phone.
23 With respect to the fire pump, with later
24 submittals the hydrants and the crossing under
25 railroad tracks with the water line, we'll need

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to see details on that.

One other issue is John had mentioned -- the Chairman had mentioned a significant point at this time is the separation between those tanks to the north. It should be noted that there are two tanks there. I believe the sketch on the conceptual plan shows only one tank but there are two tanks there. The product in the tank is either number 2 fuel oil or diesel distillate, which is somewhat equal to number 2. The quantity of the tanks are in the neighborhood of 3,000,000 gallons each. There are many variables taken into consideration to compute what the actual separation distance will be. They are the construction of the tanks, is it a floating roof, non-floating roof; the pressure at which the tanks separate, if they are above 2.5 pounds per square inch or below. Again, the flash point of the actual products themselves. The National Fire Protection Association, I believe it's pamphlet 30, has a jurisdictional document, the 2008 version, which I believe it's section 4 gives you the tables. Once you have all that other information, you can compute what the

1
2 distances are. With all that being said, we're
3 going to look for compliance with that as that
4 becomes paramount in this scenario.

5 MR. MONTAGNE: I couldn't agree more.
6 Now that we have an architect on board on the
7 team, between our research and the architect's
8 research, before the next meeting we'll get you
9 the answers. That will dictate to us whether or
10 not we need to modify the plan. We agree and
11 appreciate those comments today.

12 As far as the road width, the 20 foot
13 road width, about the only thing we have a little
14 bit of a concern on, obviously, now is because of
15 DEC's new regulations for stormwater management.
16 The more pavement we put down the more first
17 blush quality we have to look at, it becomes more
18 difficult from a management standpoint. I believe
19 the old road was a proposed gravel bed. The
20 question would be would a 20-foot gravel bed be
21 acceptable, because then we remove our impervious
22 surface issue. It would be a full depth
23 construction, just not with an asphalt surface, a
24 gravel surface. Would that be something you would
25 consider?

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MR. CANFIELD: This is the emergency access?

MR. MONTAGNE: Yes.

MR. CANFIELD: The code says it has to sustain the weight of the emergency vehicles. The surface I believe is up to the Planning Board's discretion if they want to see it blacktopped or not.

CHAIRMAN EWASUTYN: Based upon the standards today, I think it would be reasonable to expect a gravel base. I think the DEC is leaning in that direction.

MR. MONTAGNE: Then it will qualify as a pervious surface for us.

CHAIRMAN EWASUTYN: You're talking about basically a 12 inch --

MR. MONTAGNE: 12 inch section. It may even be more than that because of the loading of the fire trucks. Maybe a textile fabric underneath.

MR. CANFIELD: It will impact your calculations.

CHAIRMAN EWASUTYN: Does the Board accept that?

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MR. GALLI: I'm fine with that if the fire department is fine with that.

MR. BROWNE: The same.

CHAIRMAN EWASUTYN: Jerry, the jurisdictional fire department is Middlehope?

MR. CANFIELD: The jurisdictional fire department is Middlehope. We also mentioned their comments in review. I will see to it that they get this site plan as we do with others. I also am a member of that department, a chief officer, so I will make sure that department is fully aware of this project.

One other non-fire question that I do have is at the work session we were discussing the zoning requirement with respect to the number of boat slips. It was my understanding that that was an amendment, a zoning amendment that would be requested from the Town Board.

MR. MONTAGNE: Correct.

MR. CANFIELD: Did I hear you correctly to say that you may be applying for a variance to that?

MR. MONTAGNE: No, no. Before we were looking at both potential need for zoning

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2 modifications to the overlay district as well as
3 potentially a setback variance for the buildings,
4 one building to another. The requests that went
5 into the Town Board in the summer were really
6 requests for all to be zoning amendments. I
7 believe there were seven amendments that were
8 requested. We did get the comments back from the
9 Town Board basically saying they were okay on the
10 marina side of it but they really didn't like
11 granting the variances for the buildings, and for
12 the buffers, and for the number of units. So we
13 met with our client and had pulled back on all of
14 the requests except for the zoning amendment for
15 the number of boat slips. That's the only zoning
16 amendment at this point that we're requesting.

17 MR. CANFIELD: Those are zoning
18 amendments and not variance requests. I caught
19 myself before. I was saying variances and I
20 misspoke on that.

21 CHAIRMAN EWASUTYN: Mike Donnelly?

22 MR. DONNELLY: One other request. Just
23 so you understand, on the open space development
24 area, and the Town Board has specifically asked
25 for this, in addition to the recommendation of

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2 the Planning Board as to whether or not that
3 status should be granted, the Town Board would
4 like recommendations from the Planning Board on
5 regulations or restrictions governing that open
6 development area of both a general nature and a
7 specific nature. General meaning once the open
8 development area is granted, that will forever be
9 an open development area even if your project is
10 never built and something different comes along.
11 If you feel, from the work you've done, that you
12 have suggestions as to what some of those general
13 limitations might be, it would be helpful if you
14 provided those to the Planning Board.

15 Similarly, and I think you can focus on
16 as well, based upon the intensity of use you are
17 suggesting, could you set forth your
18 recommendations, to make the Planning Board's job
19 easier, as to what specific regulations or
20 limitations might be best applied here? For
21 instance, not more than X number of units,
22 residential units, can be built, the layout will
23 be how ever you can describe the narrative of it
24 that can be incorporated into the regulations.
25 I'm not saying they'll all be adopted by the

1
2 Planning Board but I'd hate to be in a position
3 where the Planning Board made a specific
4 regulation recommendation in good faith that
5 crimped your project more than you proposed it.
6 So if you were to give us the idea of what
7 regulations would allow headroom for your project
8 to survive, we might be less likely to make too
9 strict a recommendation that would cause us all a
10 problem later.

11 MR. MONTAGNE: It almost sounds like
12 it's a project narrative and a master development
13 plan concept that's very similar to what we're
14 showing as our concept plan that talks about the
15 number of units.

16 MR. DONNELLY: When it boils down do
17 it, that's what it becomes.

18 MR. MONTAGNE: Basically those things.

19 CHAIRMAN EWASUTYN: Bryant Cocks had
20 said early on during our work session what you
21 just described as sort of the two elements that
22 describe the project as something that's lacking
23 right now.

24 MR. COCKS: Usually we just request a
25 narrative letter stating what the changes were to

1
2 the project and everything that you just
3 discussed actually. So that would be helpful,
4 just next time saying whatever revisions happened
5 and what you're now proposing and what -- you
6 know, like the building heights and stuff like
7 that. We didn't have that information to make any
8 kind of determinations until we asked you. Next
9 time if you could just provide all that
10 information upfront.

11 MR. MONTAGNE: Absolutely. Absolutely.
12 For us we're just trying to get a nod if we're
13 going in the right direction so when we do --

14 CHAIRMAN EWASUTYN: I'll move for a nod
15 to grant conceptual approval with the
16 understanding that we will rescind the conceptual
17 approval on the condition that if the location or
18 the proximity and the code that relates to the
19 dwelling units needs to be modified, the
20 conceptual plan, then we would rescind that
21 motion on the conceptual layout.

22 MR. MONTAGNE: That would be great.

23 CHAIRMAN EWASUTYN: I'll move for that
24 motion.

25 MR. GALLI: So moved.

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MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by John Ward. Any discussion?

MR. MENNERICH: Yes. Could I raise a couple questions?

CHAIRMAN EWASUTYN: Thank you.

MR. MENNERICH: What's the purpose of the proposed pier?

MR. CRONK: The pier here?

MR. MENNERICH: Yes.

MR. MONTAGNE: That was part of the original project. It was the belief that there would still be an interest in having access through a pier and the ability to have people walk out and enjoy it.

CHAIRMAN EWASUTYN: That was part of the public access?

MR. MONTAGNE: Part of the public access and public benefit at the time.

MR. CARDAROPOLI: It was like a --

CHAIRMAN EWASUTYN: For the record you are?

MR. CARDAROPOLI: Nicholas Cardaropoli.

1 We envisioned like a fishing pier that people
2 could go out. If you're not a boater, maybe you
3 could just go out there and hang out. That might
4 be something we could set up to be in permanently
5 and not have to go in and out.
6

7 MR. MONTAGNE: Seasonally.

8 MR. MENNERICH: The other thing I
9 noticed is the existing boat ramp to be improved.
10 It sounds like you're going to be using trailers
11 to bring boats in and out to the boat slips.

12 MR. CARDAROPOLI: We want to keep it
13 for -- we don't want to have a boat launch. We're
14 going to ask people to launch their boats
15 elsewhere, like the public one at Gully's. It is
16 there. I think we should keep it for emergency or
17 smaller type boats.

18 MR. MONTAGNE: Kayaks or whatever.

19 MR. MENNERICH: Perhaps that could be
20 noted on there. When you see "improved" on there,
21 it sounds like you're getting ready to be --

22 MR. MONTAGNE: That's fine. As a
23 condition of site plan, that's fine.

24 MR. GALLI: If you have a good boat
25 ramp, you need storage for trailers.

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MR. MONTAGNE: And you have to have circulation for that. We agree with you on that. That's really not our intent.

CHAIRMAN EWASUTYN: Any additional comments on the motion before us for conceptual approval?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

Bryant, do you want to give a summary letter of this meeting as to what will be required and what's expected, that way the next time the applicant resubmits we know we have all the necessary documents?

I remember distinctly you cc'ing us. I

1
2 thought everyone got a copy. I know we did get a
3 copy. It's on top of the filing cabinet. I just
4 don't remember clearly. It was only about so
5 thick. If you would give us that out of respect
6 for what you're submitting to the Town Board.
7 That would be a good document. That's not an
8 expensive one to reproduce.

9 MR. MONTAGNE: That's actually the most
10 useful for you because it will help you very
11 quickly go back to the EIS documents and note
12 items to verify what we say.

13 CHAIRMAN EWASUTYN: Nick, do you happen
14 to -- I was thinking about who the original
15 owners of the property who got the approval were.

16 MR. CARDAROPOLI: I know the guy was --
17 he was out of New Jersey. I can almost remember
18 the name. North something.

19 CHAIRMAN EWASUTYN: I'm trying to
20 remember. Ken Mennerich and I were involved with
21 it then. If you think about it, send us an
22 e-mail.

23 MR. CARDAROPOLI: It's in the chain of
24 title, too. I have it. I'll send you a quick
25 note on that.

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(Time noted: 8:00 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.

DATED: March 21, 2012

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

----- X
In the Matter of

PALMERONE & TAYLOR'S WAY
(2010-14)
Resubdivision of Lot 2

Request For a One-Year Extension of Conditional
Preliminary Subdivision Approval

----- X

BOARD BUSINESS

Date: March 1, 2012
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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CHAIRMAN EWASUTYN: We have just Board Business.

MR. BROWNE: The first item under Board Business is a resubdivision of lot 2 of Palmerone and Taylor's Way, project number 2010-14.

The applicant is requesting a one-year extension of conditional preliminary subdivision approval which will run from March 7, 2012 to March 7, 2013.

CHAIRMAN EWASUTYN: I'll move for that motion to grant the extension.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Myself yes.

(Time noted: 8:01 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.

DATED: March 21, 2012

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

----- X
In the Matter of

LANDS OF ZAZON
(2004-29)

Request For a Six-Month Extension of Conditional
Final Subdivision Approval

----- X

BOARD BUSINESS

Date: March 1, 2012
Time: 8:02 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

1
2 MR. BROWNE: The next item is Lands of
3 Zazon, project number 2004-29.

4 The applicant is requesting a six-month
5 extension of conditional final subdivision
6 approval that would run from March 19, 2012 to
7 September 19, 2012.

8 CHAIRMAN EWASUTYN: I'll move for that
9 motion, to grant the six-month extension for the
10 Lands of Zazon.

11 MR. DONNELLY: John, if I could. As
12 you know, the statute was amended to allow
13 extensions of conditional final approval to 360
14 days. It can be granted in 90-day pieces. I
15 suppose you could grant two 90-day pieces and
16 make it six months. I point out it should be 90
17 days or two 90-day extensions.

18 CHAIRMAN EWASUTYN: I'll look to amend
19 the motion to grant two 90-day extensions for a
20 total of 180 days for the Lands of Zazon.

21 MR. GALLI: So moved.

22 MR. WARD: Second.

23 CHAIRMAN EWASUTYN: I have a motion by
24 Frank Galli. I have a second by John Ward. Any
25 discussion of the motion?

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(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

MR. BROWNE: That's it for Board Business.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of March 1st.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli and a second by Ken Mennerich. I'll ask for a roll call starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:04 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.

DATED: March 21, 2012