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

- - - - - X  
In the Matter of

LANDS OF STEINER  
(2007-38)

Frozen Ridge Road and Stacey Lee Drive  
Section 106; Block 2; Lot 2.2  
AR Zone

- - - - - X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: June 5, 2008  
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
- ALSO PRESENT: JOSEPH E. PROFACI
- DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT
- GERALD CANFIELD
- KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

- - - - - X

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

LANDS OF STEINER

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MS. HAINES: Ladies and gentlemen, I'd like to welcome you to the Town of Newburgh Planning Board meeting of June 5, 2008. At this time we'll call the meeting to order with a roll call vote.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Court Stenographer.

MR. CANFIELD: Jerry Canfield, Fire Inspector, Town of Newburgh.

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

MR. COCKS: Bryant Cocks, Planning

LANDS OF STEINER

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Consultant with Garling Associates.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

MS. HAINES: Thank you. At this time I'll turn the meeting over to Cliff Browne.

MR. BROWNE: Would you please rise.  
(Pledge of Allegiance.)

MR. BROWNE: I also ask you please turn off your cell phones, pagers and things of that nature. Thank you.

MS. HAINES: The first item of business we have tonight is the Lands of Steiner. It's a public hearing on a two-lot subdivision. It's located on the corner of Frozen Ridge Road and Stacey Lee Drive in an AR Zone. It's being represented by Ken Lytle.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a

LANDS OF STEINER

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2 public hearing pursuant to Section 276 of the  
3 Town Law on the application of Lands of Steiner  
4 for a two-lot subdivision on premises corner of  
5 Frozen Ridge Road and Stacey Lee Drive in the  
6 Town of Newburgh, designated on Town tax map as  
7 Section 106; Block 2; Lot 2.2. Said hearing will  
8 be held on the 5th day of June at the Town Hall  
9 Meeting Room, 1496 Route 300, Newburgh, New York  
10 at 7 p.m. at which time all interested persons  
11 will be given an opportunity to be heard. By  
12 order of the Town of Newburgh Planning Board.  
13 John P. Ewasutyn, Chairman, Planning Board Town  
14 of Newburgh."

15 MR. GALLI: The notice of hearing was  
16 published in The Sentinel on May 30, 2008 and in  
17 The Mid-Hudson Times on May 28, 2008. The  
18 applicant's representative sent out twenty-three  
19 registered letters, fifteen were returned. All  
20 the mailings are in order.

21 CHAIRMAN EWASUTYN: At this point I  
22 would like to introduce the Planning Board  
23 Attorney, Mike Donnelly, to explain the meaning  
24 of a public hearing.

25 MR. DONNELLY: There are several public

1  
2 hearings on this evening. The first is a  
3 subdivision hearing, the second is subdivision as  
4 well as site plan. The second one is an amended  
5 application. The purpose of the public hearing  
6 is for you, the members of the public, to bring  
7 to the attention of the Planning Board issues or  
8 concerns that you may have about the proposals  
9 that are before the Board. Each of these  
10 proposals have been before the Board for some  
11 period of time before this evening. In the case  
12 of subdivisions the State law requires that a  
13 public hearing be held. In the circumstance of  
14 site plans it is optional.

15 While you are not really here to ask  
16 questions, we certainly will invite your  
17 questions. We ask you to direct your questions,  
18 however, to the Planning Board and the Chairman  
19 will direct whether the applicant's  
20 representative or one of the Town's consultants  
21 should answer that question. After the  
22 presentation is made by the applicant, the Chair  
23 will ask those who wish to speak to come forward.  
24 If you would stand and tell us your name before  
25 you speak, spell your name if you would for the

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2 Stenographer, and tell us the area where you live  
3 so we have an idea of the perspective you're  
4 bringing to bear. We would ask you to direct  
5 your comments to the Board. We'd like every  
6 person that wants to speak to have a chance,  
7 therefore if you wish to speak again you can  
8 continue to raise your hand but you will not be  
9 recognized until everyone has had at least one go  
10 around first.

11 CHAIRMAN EWASUTYN: Mr. Lytle, give  
12 your presentation please.

13 MR. LYTLE: Good evening. Tonight  
14 we're here for a two-lot subdivision. It's  
15 located on the corner of Stacey Lee Drive and  
16 Frozen Ridge Road located in the Town of  
17 Newburgh.

18 The proposed lot has a driveway  
19 proposed located -- it's approximately 200 feet  
20 down from the crest of the hill. That location  
21 has been okayed by the highway superintendent.  
22 We met with him in the field and we have a letter  
23 regarding that. The driveway will come back up  
24 to a house.

25 We did some small retaining walls, some

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grading.

We have a septic proposed out in the front of the yard that meets the Orange County standards.

The existing lot is up on top of the hill. It's driveway currently accesses Frozen Ridge Road. It's proposed to stay that way.

Upon doing the subdivision we've extended the lot line down along Stacey Lee Drive so that lot 2, the existing lot now, will not have access to Stacey Lee Drive. The new lot will have only access to Stacey Lee Drive.

Originally this was part of a large subdivision of approximately twelve lots. In doing this it will remain twelve lots. Actually there should be no change to the area except the installation of the new home.

If the Board has any other questions, concerns.

CHAIRMAN EWASUTYN: At this time I would like to turn the meeting over to the public. As Mr. Donnelly said, if you would raise your hand and give your name and your address, you'll be recognized.

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The gentleman in the back.

MR. DEYO: Robert Deyo, I live at 14 Stacey Lee Drive. I faxed a letter to the Board today. I don't know if you're in receipt of it. I have copies for all of you.

CHAIRMAN EWASUTYN: We're in receipt of it and we made copies for everyone.

MR. DEYO: Okay. We just found out about this about a week ago. We at this time would like the Board to deny the application so we have time to assess the drainage issues, septic issues, well water issues, the driveway issue.

Zen Consulting stated that they were going to cede the existing lot away from the subdivision. We have deed restrictions. They have a deed that associates that lot presently with our subdivision. It's a private road. We have to maintain the road. We need the dues that are collected from that particular lot. Now you're adding an additional lot to it. We'd expect additional dues from that lot if this was approved.

Basically we need time to absorb, you



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know, what's going on and get some more input from the engineer before we can fully make a decision.

CHAIRMAN EWASUTYN: Okay. I'm going to turn it over to Mike Donnelly, our Attorney, to explain to you where we are in the process as far as how the Board had originally looked at potential adverse impacts, how a SEQRA determination was made. I'll let Mike educate you as to where we are in the process right now.

MR. DONNELLY: Sure. There is a State law, and you're probably aware of it, called the State Environmental Quality Review Act. That law requires the Planning Board that is reviewing a subdivision application to, at the very beginning of the process, assess the potential environmental impacts of the project. That was done by the Board with the assistance of its various consultants. When the Board has concluded that environmental review it has a fork in the road that it can follow, and the terms are either a negative declaration or a positive declaration. The words don't really connote what they mean but the Board may choose to declare

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2 based upon it's review of the project there will  
3 be no significant adverse environmental impacts,  
4 that's a negative declaration, or, if it  
5 determines that there are likely to be or may be  
6 significant adverse environmental impacts, it can  
7 issue a positive declaration. If it issues a  
8 positive declaration then it can require  
9 preparation of an Environmental Impact Statement  
10 and a public hearing on the Environmental Impact  
11 Statement.

12 In this case the Planning Board issued  
13 a negative declaration. That was a determination  
14 that there will be no significant adverse  
15 environmental impacts. That is required to be  
16 done before a public hearing can be opened. So  
17 if there's a new issue that the Board isn't aware  
18 of, it could consider it, but the Board certainly  
19 had its consultants look at traffic, drainage and  
20 all of the standard issues that the division of  
21 land comes up with.

22 You raised two other issues along the  
23 way, and with the Chairman's permission I'll  
24 comment briefly on those as well. One is the  
25 roadway maintenance agreement. I have not seen

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2 the agreement but the agreement will not be  
3 affected by what happens here, meaning that all  
4 of the land that is a part of the land to be  
5 subdivided is, I would assume, bound by the  
6 agreement. What the shares of payment are I do  
7 not know. That's a private issue for the members  
8 who are bound by that roadway maintenance  
9 agreement to determine. But no lot is being  
10 released from it's command. However, the  
11 argument I'm sure on the applicant's side is only  
12 one lot will access and use the roadway. That  
13 was true before, that will be true after. That's  
14 still one share.

15 CHAIRMAN EWASUTYN: The gentleman in  
16 the back.

17 MR. KAHABKA: Good evening. My name is  
18 John Kahabka, K-A-H-A-B-K-A, I live at 46 Stacey  
19 Lee Drive. I'll say right out I'm opposed to the  
20 subdivision of the lot. I understand the SEQRA  
21 regulations. Through my work life I'm the vice  
22 president for health, safety and the environment  
23 for the New York Power Authority. I would ask  
24 the Board to reconsider some of the SEQRA issues  
25 regarding wetlands, whether or not there is

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enough buildable space on the lot.

The second issue I'd like to bring to point is actually the access driveway, which in conversations with the previous owner -- by the way, I did file comments yesterday by mail. I think you all should have them by now. My understanding is that the Board at one time actually ruled for the original homeowner that he could not put the driveway on Stacey Lee Drive, and that subsequently was the result of having the drive on Frozen Ridge Road, because of sight issues, safety issues and concerns.

As you see in my letter, there has been an accident there already involving a small child because of the sun glare. I would stress that the Board reconsider their decision on this or consider that in their decision.

There's a whole bunch of issues actually that I think you ought to look at regarding the subdivision of this lot.

Counselor, you did raise a good point regarding the homeowners maintenance agreement. You just referenced the road maintenance agreement. There is another document, which is

1  
2 the homeowners agreement, which stipulates that  
3 it is twelve lots, it stipulates what can be done  
4 and not be done on that property. You'll see in  
5 my comments that there is, at least in my mind,  
6 filed with the county clerk's office that that  
7 can not be changed unless it is a quorum of the  
8 homeowners.

9 So I would just really ask you to deny  
10 this application for the subdivision. Thank you.

11 CHAIRMAN EWASUTYN: Ken Lytle, is there  
12 any wetlands on the property?

13 MR. LYTLE: No.

14 CHAIRMAN EWASUTYN: Ken Wersted, you  
15 looked at the sight distance and standards  
16 associated with traffic safety. Could you  
17 comment on that?

18 MR. WERSTED: Because there's a limited  
19 number of units on the road, the amount of  
20 traffic that's on the road falls under a certain  
21 category, and in this category the American  
22 Association of State Highway Transportation  
23 Officials gives recommendations as to how much  
24 sight distance is needed under these conditions.  
25 Under these conditions they would need

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approximately 165 feet of sight distance. My understanding from the workshop is that there's approximately 238 feet.

MR. LYTLE: Yup.

MR. WERSTED: So the sight distance for the driveway exceeds the recommended ASHTO sight distance.

MR. KAHABKA: Did that take into account the grade of the road and the position of the road in an east/west direction with sun glare?

MR. WERSTED: It doesn't take into account sun glare because sun glare isn't a criteria that you base sight distance on.

MR. KAHABKA: I would strongly suggest that you go up there in the morning sun and see -- as it crests the top of the hill and see what you can actually see, which is very little.

MR. WERSTED: I agree that that's potentially there at certain times of the year.

MR. KAHABKA: I mean we already had one child up there --

MR. WERSTED: I would also point to any east/west road in the United States also.

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MR. KAHABKA: You have to look at Stacey Lee Drive to see the grade of the road going up to the top of the crest of the hill and understand the sun glare is very detrimental to seeing a line of sight cresting the hill. There is a lot of traffic on that road. You can't just count twelve houses. We have garbage trucks, we have concrete trucks, we have delivery trucks, we have just sightseers on there.

MR. WERSTED: In the context of the criteria there isn't a lot of traffic on the road.

MR. KAHABKA: I understand. I understand the standards, however in some cases the standards do not adequately reflect the actual conditions at a site, and that has to be taken into account.

CHAIRMAN EWASUTYN: Okay. Mr. Donnelly, the private agreements that were being spoken of.

MR. DONNELLY: Yes. I spoke with the Board earlier at the work session. The courts have told planning boards that the existence of private agreements among landowners, even

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2 recorded instruments that carry restrictions like  
3 no further subdivision or that certain uses may  
4 not be carried out, are issues that are separate  
5 and distinct from the issues that planning boards  
6 are permitted to examine, and the courts have  
7 instructed planning boards that they are to view  
8 the application as if such agreements did not  
9 exist and to make their decision without  
10 considering them. That is not to say that you  
11 may not have some rights of enforcement of those  
12 private restrictions of record insofar as they  
13 are enforceable as against the subdivider, but  
14 the Planning Board may not consider them.

15 MR. KAHABKA: So we would have to  
16 actually take legal action against the  
17 individual --

18 MR. DONNELLY: Yes. It's a private  
19 issue and you would have to pursue it --

20 MR. KAHABKA: -- versus the Planning  
21 Board?

22 MR. DONNELLY: -- instead of the  
23 Planning Board enforcing it as part of its  
24 approval. Yes.

25 MR. KAHABKA: And what is the citation



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on that?

MR. DONNELLY: In my letter there's a series of cases. There are two decisions that the Court of Appeals has said that.

MR. KAHABKA: In New York State?

MR. DONNELLY: In New York State.

MR. KAHABKA: Regarding the issue of wetlands, who looked at the wetlands issue?

MR. LYTLE: In the beginning of the application we sent letters off on the wetlands and actually got a response back from them actually saying there are no wetlands on the site. The DEC.

MR. KAHABKA: The DEC came out, Region 3?

MR. LYTLE: Yes. We have a letter to that. I believe the Planning Board does, too. Again, one of our issues we had was actually again the existing slopes.

MR. KAHABKA: That was another comment in my letter. I would like to know how the drainage is actually going to end up.

MR. LYTLE: Basically there's some minor grading actually behind the house. Again,

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the driveway is sloping down across the hill. Again not actually having water leave the site again actually where the driveway is, that will actually act to slow the water down towards the utility box in the front corner of the lot.

MR. KAHABKA: You have the calculations to prove that?

MR. LYTLE: We can provide those.

CHAIRMAN EWASUTYN: Pat, did you look at the drainage report?

MR. HINES: There was no drainage report prepared for the project. The project doesn't meet the threshold for either the Town's drainage ordinance or the DEC regulations because it's a residential project affecting less than one acre of disturbance. So it's not something we looked at. If there is a drainage issue there the Board certainly can request a review of that and we would be happy to review the reports submitted. No report is required because it doesn't meet the threshold for either the Town or the DEC requirements.

MR. KAHABKA: So the DEC threshold of one acre for a stormwater pollution prevention

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plan and subsequent drainage analysis was not reached?

MR. HINES: Correct. It's not a drainage analysis. One acre for residential subdivisions less than 15 percent impervious, it requires a soil erosion and sediment control plan. You need a five-acre threshold on a residential project to require a full-blown stormwater management report from the DEC. The Town has regulations which are a little more strict than that. If you were constructing a new private roadway or any form of roadway it would trigger the need for that review, which isn't the case here.

MR. KAHABKA: I would ask the Town Board -- Planning Board once again to look at that particular issue. I have come before the Board once before for the properties on north Fostertown when that development was put in and the drainage off of that facility, the culvert -- the reason I'm concerned is I have a pond on my property that drains basically that entire area of Stacey Lee Drive and I don't want it to backup and impact my property. At that point in time we

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were assured that the calculations were correct, however the spring runoff the following year blew the culverts right off. There were two 36-inch culverts. In that case we ended up going in with box culverts. I would suggest this be examined one more time on this property.

CHAIRMAN EWASUTYN: Additional comments from the public? The gentleman there.

MR. ALVARADO: My name is Tony Alvarado, I reside at 49 Stacey Lee Drive. I'm a single parent. My wife was killed in a car accident two years ago. I have three children who go to Sacred Heart. I take the 5:33 train in the morning into Manhattan. That's where I work. My children walk down by themselves winter, summer during the school year on that hill. They wait for the bus and they walk home by themselves.

Mr. Wersted, that glare is an important issue. The hill is an important issue.

I stand opposed to it for the simple fact of I didn't know it was coming. Mr. Donnelly spoke of some reports, negative impact reports. I would like an opportunity to take a

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2 look at that. Mr. Wersted talked about some  
3 traffic reports. I would like an opportunity to  
4 take a look at them. We would like an  
5 opportunity to be more informed about what's  
6 going on. To directly impact the families that  
7 live on Stacey Lee Drive on the Apple Knoll  
8 Estates -- I for one am familiar with the little  
9 -- with the kid that got hit by the car. I don't  
10 want my children to be part of that.

11 I ask that you take a look at the good  
12 of the many versus the good of a few. We are not  
13 opposed to change. Change is a good thing. We  
14 are opposed to uninformed change. We would like  
15 an opportunity to take a look at the facts of the  
16 case before we agree or disagree. We ask the  
17 Board at this time to deny. Thank you.

18 CHAIRMAN EWASUTYN: Additional  
19 comments? The gentleman in the back.

20 MR. CUTLER: My name is Lee Cutler, I  
21 reside at 64 Stacey Lee Drive. Like the other  
22 residents of Stacey Lee Drive, we just discovered  
23 this last night. I have two children also who  
24 walk up and down that road as other parents have  
25 there. I don't know how you can make a decision

1  
2 without seeing the reality of that blind spot  
3 exactly where you're putting in a driveway. You  
4 are setting yourself up for a tragedy here. I'd  
5 like to know what your liability would be in that  
6 to ignore the warning here of that kind of  
7 tragedy. There are many children who go there,  
8 up that hill at different times, in the winter  
9 when it gets dark early and of course the sun  
10 glare which has been spoken to.

11 I think you need to give us some time  
12 to look at this and consider it. This is a very  
13 dangerous situation you're allowing to happen.

14 I'm shocked that originally it was  
15 clear that that road, that access road could not  
16 be put at Stacey Lee Drive, it had to be off of  
17 Frozen Ridge. There was a reason then and the  
18 reason is still here today. I just hope if this  
19 goes through that no children get hurt.

20 CHAIRMAN EWASUTYN: Ma'am.

21 MS. FOSTER-HOOD: Good evening. My  
22 name is Maxine Foster-Hood. I'm here with my  
23 husband Anthony and one of our children. We live  
24 at 201 Frozen Ridge Road which is actually  
25 directly adjacent to Stacey Lee. We got informed

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2 of the plan of the subdivision but I was keenly  
3 listening to the drainage issue. I stand here  
4 from experience knowing that there is a problem.  
5 It will be really great if, as some of the other  
6 people here have said, if someone actually came  
7 to look at it because there is flooding. The  
8 area is swampy. I don't know exactly what  
9 criteria the agency used to determine -- make  
10 their determinations but we have a great problem,  
11 especially when the snow starts melting. We have  
12 flooding on our property. The drainage is so bad  
13 that we flood, that it goes directly over to the  
14 unoccupied area. Just these past two weeks as I  
15 think everybody here will notice, going down  
16 along that right side of Frozen Ridge where we  
17 are past Stacey Lee they put in some big drainage  
18 pipes. Even though it helps but because it's --  
19 at this point in time I don't think it's going to  
20 be as effective to drain the excess water because  
21 we do have I think a pretty high water table.

22 I would really encourage the Board to  
23 take a closer look at the issue because it's easy  
24 to say oh, it doesn't fall at the criteria  
25 looking at it but when you have to live with it

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you realize that it is a big issue. Thank you.

CHAIRMAN EWASUTYN: Comments from the public who haven't had a chance to speak?

MR. POMARICO: Michael Pomarico, I live at 48 Kettle Court but I own property on the south side on Stillery Path. I'm just wondering in relation to the map where my parcel is.

MR. LYTLE: You're the first corner lot?

MR. POMARICO: Not the corner, the next one in.

MR. LYTLE: The second one in. It's on the other side of the hill.

MR. POMARICO: Okay.

MR. LYTLE: It's on the back side of the hill. If you come up Stacey Lee, everything from the property all slopes down toward Stacey Lee. The crest of the hill is actually up by the house.

MR. POMARICO: Right.

MR. LYTLE: I think actually you built the house down here for Ponesse.

MR. POMARICO: So I would be in between --



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MR. LYTLE: Actually on the back side of Ponesse.

MR. POMARICO: What would the size of the new lot be?

MR. LYTLE: It's a little over 40,000 square feet.

MR. POMARICO: Over an acre?

MR. LYTLE: Just under an acre. 40,000 was required.

MR. POMARICO: I would just request if it does get approved, maybe if you can leave a twenty-foot patch on the back line as forever wild just for a privacy buffer. I'm not sure if it even borders me. Does it border my lot?

MR. LYTLE: Yeah. Actually the whole subdivision fully does. On the new lot I don't see that being a problem, a twenty-foot strip. Again, the wells wouldn't affect the actual lot.

MR. POMARICO: Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

MR. FOSTER-HOOD: My name is Anthony Foster-Hood and I'm the husband for Maxine. Could you indicate to me where the lot is from

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201 Frozen Ridge Road?

MR. LYTLE: I believe you're on the other side of the road, opposite Frozen Ridge Road. Is that correct?

MR. FOSTER-HOOD: Yes.

MR. LYTLE: Do you want to come up and look at the map? Here's where Stacey Lee Drive comes down the hill and here is Frozen Ridge Road. I believe you're in the house across the street.

MR. FOSTER-HOOD: I believe I'm here.

MR. LYTLE: Right on the corner there? That's actually on the back side of this. Where the crest of the hill is, you're on the back side of that. The existing house is up on top of the hill. That's going to remain. There's a new lot on the back side of that hill.

MR. FOSTER-HOOD: Okay.

MR. LYTLE: Does that help you?

MR. FOSTER-HOOD: Can I request that -- because my lot is right here and there's no drainage specifically that's -- that accommodates my lot. I think we have the two dry wells which when the snow is melting the water backs up and

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it backs up in my basement. So I request that the Board look at that also.

CHAIRMAN EWASUTYN: Pat, do you want to discuss where our boundaries are limited as far as that?

MR. HINES: As I said earlier, it doesn't meet the threshold to require a drainage study. Certainly if the Board wants I can take a field review out there. I'm hearing drainage concerns from several people. It may be worthwhile to take a look at the conditions to make sure it doesn't impact any of the neighboring properties. I would recommend we go ahead and do look at that.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: If there's no further comments from the public I'm going to --

MR. POMARICO: One more.

CHAIRMAN EWASUTYN: Go ahead.

MR. POMARICO: Mike Pomarico. Just another quick question, Kenny. Does any of that drain towards me or does it all keep going to the

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west?

MR. LYTLE: Everything drains away from you.

MR. POMARICO: Okay. Just roughly Ponesse and me, how much of the new lot, if it were to go, would it be like dividing -- would Ponesse's line and mine kind of divide that?

MR. LYTLE: Your lot and Ponesse divides where the new lot is.

MR. POMARICO: Say it again.

MR. LYTLE: Where Ponesse's lot and your lot divide, that's where we actually propose the new lot.

MR. POMARICO: It would go to the west?

MR. LYTLE: It would go to the west.

MR. POMARICO: Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public before I turn to our consultants? (No response.)

CHAIRMAN EWASUTYN: Jerry Canfield, do you have any comments at this point?

MR. CANFIELD: We have no fire protection concerns at this point.

CHAIRMAN EWASUTYN: Pat Hines, Drainage

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Consultant?

MR. HINES: We had previously reviewed the project on several occasions. The latest set of plans has addressed our comments regarding the septic system.

This lot was before the Board in the past and the issues regarding septic had to do with the slope. The applicants have proposed what is now considered a conventional design, an Elgin in-drain proprietary septic system to be installed on the site. They're a smaller footprint required for installation. The applicant's representative has shown us on the plans an area which is less than 15 percent meeting the requirements for a conventional septic system. In addition, notes have been added to the plans regarding lot 4.2 and the separation distances between wells and septic tanks on those lots.

We had previously requested some additional details on the retaining wall which is required for construction of the house and the driveway in its current configuration. That's been provided.

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We commented and discussed at work session the private access maintenance agreement issues with Stacey Lee Drive which Mr. Donnelly has addressed.

Based on the comments we heard tonight I do think that it warrants a review of the drainage along the private roadway in the area, and at that time I'll also take a look at the sight distance issues that were discussed.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Yes. We reviewed the application for compliance with Zoning and the applicant currently meets all setback requirements. It's noted on the plans in the bulk table.

In regard to the buildable lot area as was mentioned by the public, we looked at that and the applicant has provided 8,500 square feet which is required by Zoning.

Other than that, he addressed all the previous comments and we have nothing further.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: I have no comment on this

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project.

CHAIRMAN EWASUTYN: Ken Wersted,  
Traffic Consultant?

MR. WERSTED: Nothing further. If Pat  
needs any help with sight distance, I'm  
available.

CHAIRMAN EWASUTYN: Comments from Board  
Members. Frank Galli?

MR. GALLI: After hearing from the  
public tonight I think I would be in favor of  
holding the public hearing open to give our  
consultants time to get out in the field and take  
a look at the drainage and report back to us,  
give us some time to actually see it and  
determine from there the drainage.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I would agree with that.  
Also along with that, to allow the folks in the  
audience time to look at the data and information  
that's available.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I agree with both of  
those comments. I just wonder, the original --  
the existing house, the reason that the driveway

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couldn't go out to Stacey Lee Drive was based on the elevation change from the house to Stacey Lee Drive rather than a sight distance concern, because it looks like from the elevations there it was very steep.

MR. HINES: It is steep and it probably has to do with they took advantage of the highest point on that lot to place the house. This lot as proposed is higher in elevation and there is some grading required for the driveway in order to access the proposed house.

CHAIRMAN EWASUTYN: Do you have a copy? We should go to Goshen and get a copy of the original subdivision map on the property.

MR. LYTLE: I have it.

CHAIRMAN EWASUTYN: And the original driveway for that lot?

MR. LYTLE: It just showed a house and septic in multiple areas.

CHAIRMAN EWASUTYN: Were driveways shown for any of the lots?

MR. LYTLE: No.

CHAIRMAN EWASUTYN: I think originally in this subdivision all the lots were to have



1  
2 access on Stacey Lee Drive. Stacey Lee Drive was  
3 something that was originally done by a gentleman  
4 called Ed Soto who went bankrupt on this project.  
5 It was to be an exclusive development. All the  
6 lots were to have access off of Stacey Lee Drive.  
7 I think the first house that went up by Ed Soto  
8 was on the right and the second house was a  
9 contemporary house that eventually went under  
10 foreclosure. If my recollection serves me right,  
11 they were all supposed to have access off of  
12 Stacey Lee Drive. The question came up when this  
13 was presented to us and it went back to the town  
14 highway superintendent how was it that this lot  
15 now had access onto Frozen Ridge Road.  
16 Originally what was being proposed with all the  
17 subdivisions along these roads was to minimize  
18 the amount of curb cuts on the Town road, so the  
19 safety concept -- and that's true whether it be  
20 on a State road or a Town road -- is to limit the  
21 amount of access and to have all the driveways  
22 come out onto one road. Daryl Benedict, who is  
23 now the highway superintendent, wasn't the  
24 highway superintendent at the time that this  
25 driveway was then licensed to come out onto what

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is now shown as being Frozen Ridge Road.

Joe Profaci?

MR. PROFACI: I have a big concern with the sight distance so I am certainly in favor of holding the meeting open and having Pat and Ken review that issue.

CHAIRMAN EWASUTYN: Dina, what's our second meeting in June?

MR. DONNELLY: July.

MS. HAINES: July is the 19th.

CHAIRMAN EWASUTYN: Are you sure of that? If it's the 3rd we're looking to have it, that would make it the 17th I would think.

MR. DONNELLY: Your second meeting is the 17th.

MS. HAINES: Thank you.

CHAIRMAN EWASUTYN: Thank you.

I'll move for a motion to continue the public hearing to the 17th of July.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

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2 (No response.)  
3 CHAIRMAN EWASUTYN: I'll move for a  
4 roll call vote starting with Frank Galli.  
5 MR. GALLI: Aye.  
6 MR. BROWNE: Aye.  
7 MR. MENNERICH: Aye.  
8 MR. PROFACI: Aye.  
9 CHAIRMAN EWASUTYN: And myself. So  
10 carried.  
11 MR. GALLI: John, do we have to  
12 re-notify everybody or they're going to remember  
13 on their own?  
14 MR. DONNELLY: You announced the date,  
15 time and place. It won't be re-noticed.  
16 MR. GALLI: As long as they know.  
17 MR. LYTTLE: Call Pat and set up a time  
18 to meet out there?  
19 MR. HINES: Yes.  
20 CHAIRMAN EWASUTYN: Thank you.  
21 MR. LYTTLE: Thank you.  
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23 (Time noted: 7:34 p.m.)  
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C E R T I F I C A T I O N

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

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DATED: June 18, 2008

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

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In the Matter of

ORCHARD HILLS  
(2003-41)

Route 9W and Oak Street  
Section 9; Block 1; Lots 45.21, 45.1 & 44.2  
R-3 & R-1 Zones

----- X

PUBLIC HEARING  
AMENDED SITE PLAN

Date: June 5, 2008  
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

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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MS. HAINES: The next item of business we have tonight is Orchard Hills. It's also a public hearing. It's an amended site plan, it's located on Route 9W and Oak Street, it's in an R-1 and R-3 Zone and it's being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 185 Section 185-57 K and Chapter 163 section 163-8 J, on the application of Orchard Hills for an amended site plan and subdivision re-approval on premises Route 9W and Oak Street in the Town of Newburgh, designated on Town tax map as Section 9; Block 1; Lots 45.21, 45.1 and 44.2. Said hearing will be held on the 5th day of June at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By

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order of the Town of Newburgh Planning Board.  
John P. Ewasutyn, Chairman, Planning Board Town  
of Newburgh. Dated May 16, 2008."

MR. GALLI: The notice of hearing was  
published in The Sentinel on May 20, 2008, in The  
Mid-Hudson Times on May 21, 2008. The  
applicant's representative sent out thirty-one  
registered letters, twenty-nine were returned.  
The mailings are all in order.

CHAIRMAN EWASUTYN: Ross, please.

MR. WINGLOVITZ: As I guess the notice  
said, we're here for an amended approval of the  
site plan. This site plan was the subject -- and  
the subdivision, the subject of a hearing some  
two years ago I believe. Since then the  
application actually received final approval last  
August, or conditional final approval. We're  
back to make a minor amendment to the plan.

I'll just go through the plan to get  
everybody oriented. 9W is on my left. Oak  
Street is to the south end of the project. The  
entry drive to Parr Valley -- this is Parr  
Valley. Oak Street continues towards the river.  
Here's a secondary emergency access. The project

1  
2 will be accessed through the Parr Valley  
3 entrance. There will be a new light. At the  
4 time of the previous hearing we didn't know if  
5 that was going to happen or not. The project did  
6 propose it. It was approved for a light and  
7 left-turn lane at the Parr Valley entrance  
8 opposite Morris Drive with access coming through  
9 the Parr Valley entrance into the site.

10 The site also has an emergency access  
11 that will be used for construction traffic during  
12 the early portion of the project. There's a  
13 secondary emergency access to Oak Street further  
14 east.

15 The front portion of the project is 124  
16 apartments. That has not changed. That is the  
17 same as originally proposed.

18 There was some significant berming that  
19 was added to the plan behind these units as a  
20 result of the comments from the public, berms and  
21 landscaping, as well as fencing has been provided  
22 along that portion of the project screening the  
23 residents to the east. As I said, that primarily  
24 stays the same.

25 There's slight modifications in the



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building footprints based on final architecture, and some minor modifications to internal roadways for improvements for traffic flow.

The all sports court has been slightly rotated as a slight modification to reduce construction on steep slopes. There's been some landscaping added for screening between that and Parr Valley.

The primary change comes to the town home portion of the project. That's the 126 town homes. Instead of being for rent these are going to be -- 126 town homes for sale, instead they're going to be 126 town homes for rent. The footprints of those buildings has actually gotten slightly smaller than originally proposed, so there's less earth disturbance, less impervious cover.

In addition, five of the buildings will be two-bedroom units only where previously all the buildings were three-bedroom units. So there's thirty less bedrooms overall in the proposed project.

The twenty-one proposed single-family lots remain the same. That has not changed at

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all from the previous application, or from the previous approval.

The drainage and sewer is identical. There's several small detention ponds throughout the project, one larger detention pond at the low point opposite the sewer treatment plant for Parr Valley. As previously proposed, that treatment plant is being upgraded -- actually removed in its entirety. A brand new plant is going to be installed at that location to service both Parr Valley and the project. Water for the project is being provided by connection to the municipal water on Route 9W.

As part of our submission the Board asked us to take a look at the environmental impacts. We did a comparison on drainage, water, sewer. All those things were actually -- the drainage didn't change. Water and sewer are going to be slightly less usage because of the fact that we have thirty less bedrooms. The disturbance area has actually decreased. All those impacts decreased slightly due to the smaller size units and the fewer number of bedrooms.

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We did also look at school children at the Board's request. Based on the previous study and using their data, because of the fewer bedrooms there was a reduction of five less school children projected as part of that analysis using the same study basis as the previously approved plan and Environmental Impact Statement.

I think that's all I have. I would be glad to answer any questions.

CHAIRMAN EWASUTYN: At this point we'll open the meeting to the public for their comments.

MR. BYCZEK: Joe Byczek, 134 Oak Street, B-Y-C-Z-E-K. Where Oak Street comes in, that road is going to be just an emergency road or something there?

MR. WINGLOVITZ: Correct.

MR. BYCZEK: Those units in there, what type of units are they? Are they condos?

MR. WINGLOVITZ: They're apartments.

MR. BYCZEK: They're apartments?

MR. WINGLOVITZ: Yes.

MR. BYCZEK: Rentals?

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MR. WINGLOVITZ: Yes.

MR. BYCZEK: That's what I figured.

MR. WINGLOVITZ: That's always as it was proposed.

MR. BYCZEK: Which is lousy. Now we've got three houses right there. How far are those first units coming in from Oak Street away from the existing homes? There's about three homes right in there right next to that green.

MR. WINGLOVITZ: In here?

MR. BYCZEK: Yes.

MR. WINGLOVITZ: That was something that was looked at at the previous public hearing. I don't know the exact distance. What the Board asked us to do and what was provided, these buildings, I think if you remember, originally they were pushed actually against the property line. The Board asked us to move them away, which we did, and then there's large berms proposed at this location, buffer and landscaping, to buffer these units from the abutting residents.

UNIDENTIFIED SPEAKER: Any fencing?

MR. WINGLOVITZ: I think there is

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2 fencing down along this portion of the entry  
3 drive because of the location of the driveway.  
4 MR. BYCZEK: And now that's going to be  
5 used for construction, Oak Street?  
6 MR. WINGLOVITZ: Yes.  
7 MR. BYCZEK: What are you going to do  
8 about that bridge down there?  
9 MR. WINGLOVITZ: That has to be  
10 replaced before we do anything.  
11 MR. BYCZEK: That has to be replaced?  
12 MR. WINGLOVITZ: Yes.  
13 UNIDENTIFIED SPEAKER: Good luck.  
14 MR. BYCZEK: Good luck is right. Now,  
15 how many units all together?  
16 MR. WINGLOVITZ: There's 271.  
17 MR. BYCZEK: How many cars are you  
18 talking about?  
19 MR. WINGLOVITZ: I do not remember the  
20 numbers.  
21 MR. BYCZEK: What, three cars to a  
22 family?  
23 MR. WINGLOVITZ: New cars or are you  
24 talking peak vehicle trips?  
25 MR. BYCZEK: People that are going to

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live there.

MR. WINGLOVITZ: There's 271 new units, two cars per household.

MR. BYCZEK: Two to three; right? You're talking about 500, 600 cars all going out that one road where the light is going to be.

MR. WINGLOVITZ: There's going to be a new light.

MR. BYCZEK: And what about the poor people coming out of Oak Street? I can't get out now.

CHAIRMAN EWASUTYN: The traffic impacts were studied under the original project. The project was approved based upon those studies. The buffers that are in place, there's been no change. As far as the change that they are proposing now, it does not affect the impacts that were studied originally, and I say that politely to you. To go back and say what about the traffic for this, what about the traffic for that or what about fencing and screening, those were all looked at based upon the D.E.I.S., the F.E.I.S. and the Findings. They've all been covered. The only change now is originally it

1  
2 was proposed to be 124 rentals and 126 town house  
3 units. Now those 126 will be all rentals.  
4 That's the only change. He spoke about the  
5 addition of maybe school-age children.  
6 Everything basically remains the same. Traffic  
7 was looked at, that there may be a potential of  
8 fifteen more vehicles.

9 Ken Wersted.

10 What I'm trying to say politely is we  
11 can't go back and look at issues that have  
12 already been addressed. I mean for the benefit  
13 of the meeting to make it meaningful. I'm not  
14 looking to say you can't speak but there's a past  
15 and a present. We're working with the present  
16 now based upon the changes from 126 town house  
17 units to rentals. The Planning Board thought it  
18 was in the best interest of the public, and Mr.  
19 Galli brought that up, that we should invite the  
20 public in to know that they're now going to be  
21 all rentals so later on when you hear about it  
22 you say well that wasn't what was originally  
23 proposed to us. It's in respect to you an  
24 informational meeting.

25 MR. BYCZEK: Mm'hm'.

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CHAIRMAN EWASUTYN: I don't mean to take away from you but that's where we are at this point in time. We could no longer now ask the applicant, even if a fence wasn't in, to now put a fence in. We're not at that point in the process.

MR. BYCZEK: How is it going to be phased? Where are you starting?

CHAIRMAN EWASUTYN: Good question.

MR. WINGLOVITZ: Phasing will be started -- originally staging in this area with these two buildings going up and then construction beginning in this direction so that this and this will be constructed simultaneously in the first phase and you'd work your way out in the back.

CHAIRMAN EWASUTYN: Ma'am.

MS. DUCKWORTH: I'm Mrs. Duckworth and I live at 135 Oak Street right next to these people. We're in the Marlboro School District and in the Town of Newburgh. As you know, taxes and stuff what's been going on. Has the Marlboro School District been informed of this whole new project that's coming up with the additional



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2 input on their system, on their school system, or  
3 do they have to be notified that this is going to  
4 be a whole new development coming in and it's  
5 going to impact on the school system there? Now  
6 we're going from apartments -- we were going to  
7 have nice townhouses where people were going to  
8 buy so you knew people were investing in them.  
9 Now having apartments and more apartments which  
10 means it's going to be a lot of comings and  
11 goings, people stay, they leave. Apple Valley  
12 started out with the condominiums and now it's  
13 going downhill.

14 MR. WINGLOVITZ: It's apartments and  
15 condos right now.

16 MS. DUCKWORTH: Yeah. You know, like  
17 you say this is just our input. I don't even  
18 know why we're here because we can't change  
19 anything anyway, but --

20 CHAIRMAN EWASUTYN: It's informational.  
21 The amount of change in school-age children to  
22 the project now, Ross.

23 MR. WINGLOVITZ: I would project five  
24 less school-age children than previously  
25 projected.

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MS. DUCKWORTH: Normally when people move into apartments, when you're not buying something there's a different mentality.

MR. WINGLOVITZ: And the reason for that --

CHAIRMAN EWASUTYN: We can't discriminate.

MS. DUCKWORTH: I know. I know.

CHAIRMAN EWASUTYN: We can't make judgment as to how they're going to live, what they're going to look like, what that's all about. That's a matter of discussion that people can make assumptions, but we can't make those assumptions.

MR. WINGLOVITZ: I think going from townhouses for sale to townhouse rentals, the big difference here was that it reduced the bedroom count by thirty. So there's thirty less units that are not three bedrooms, they're two bedrooms.

CHAIRMAN EWASUTYN: Marlboro School District was brought into the process.

MR. WINGLOVITZ: I met with them several times.

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MR. GALLI: They sent a representative to the first public hearing.

MS. DUCKWORTH: Yes, I remember that. At the time the superintendent did come. It had been a couple years so I didn't know whether -- because nothing had been done in the last couple years, I didn't know whether they had been informed again.

MR. WINGLOVITZ: We've been doing a lot. Nobody else sees it.

CHAIRMAN EWASUTYN: This gentleman.

MR. LYONS: James Lyons, 5417 Route 9W. We own the farm market to the west side of 9W. Will these apartments be subdivided?

MR. WINGLOVITZ: No.

MR. LYONS: Does it have any affect changing from townhouses to apartments on the school district getting tax revenue?

MR. WINGLOVITZ: No. The assessment is actually done the same way. Condominiums are assessed as apartments.

MR. LYONS: Thank you. And for the record, the last time at the public hearing I was in favor of the project. I wouldn't be in favor

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of the project at this point.

CHAIRMAN EWASUTYN: This gentleman.

MR. TORO: My name is Emilio Toro, I live at 131 Oak Street. I've been there about three years now. The first I hear about this project is in the mail. I've heard about it by mouth but the first time I heard about the hearing.

The gentleman here, Joe, has a point there about the barrier of the fence. I'm the corner house of Oak Street where they're going to have this construction coming in, and these people are just right next to me. Sure there's going to be a lot of racket when the new condos are up, apartments. Right now we've got a great deal of tranquility. It's a bird sanctuary. That's all going to change. I'm all for the change but it would be nice if they would be obligated to try to put a barrier up for us.

CHAIRMAN EWASUTYN: I think the barrier was proposed as far as buffers and screening. In the true reality of life you can't be putting up fences to fence out people. I mean the idea of one person being of one element, the other person

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being the other element and putting up chain-link fences to screen out life isn't a real life issue.

MR. TORO: Absolutely. I agree. But we're not trying to screen off just one person to the next. We're screening off a complete complex from us individually. I mean I think that's a little bit appropriate. I can understand just not fencing off just neighbors, you know.

CHAIRMAN EWASUTYN: The proposal hasn't changed from when it was originally approved, and it was approved with what's called mitigation measures. The screening, the buffering is in place. We're not at a point in time where we could rescind that motion now and start putting in screening. A hard look was given to that during the early review process.

MR. TORO: Okay. How about putting a street light on Oak Street? You can barely get out of Oak Street right now to 9W.

CHAIRMAN EWASUTYN: That wasn't part of what was studied or required. Again, we can't go back in time for putting that in.

MR. TORO: Okay.

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MR. PROFACI: If anything, having a traffic light where they're proposing it is going to assist you in coming out of Oak Street.

MR. TORO: They're going to be backed up.

MR. PROFACI: It's going to stop people from coming in one direction.

MR. DONNELLY: It creates gaps.

MR. PROFACI: It creates gaps.

MR. TORO: One other question. What's to stop the people in the complex from using Oak Street as a regular street? It has an emergency access as you're staying.

MR. WINGLOVITZ: It will be gated.

MR. TORO: It's going to be gated?

MR. WINGLOVITZ: Yup.

MR. TORO: Okay. That's the back of my house right up onto that main road. Okay.

CHAIRMAN EWASUTYN: Mr. Lyons.

MR. LYONS: One further question, Mr. Chairman. In the phasing of the project are you planning on putting the turn lanes and the traffic light in the first phase or are you going to be building the project and then adding the

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traffic light after?

MR. WINGLOVITZ: That was identified in the Findings Statement. I think it's part of the first certificate of occupancy being issued.

MR. LYONS: That doesn't answer my question. My question is will the traffic light come --

MR. WINGLOVITZ: That means the buildings may be constructed simultaneously but before it's occupied the light will be in operation.

CHAIRMAN EWASUTYN: Mrs. Duckworth.

MS. DUCKWORTH: On the apartments on that section right there, the parking area, are they going to be like -- are they going to be behind these buildings which would be --

MR. WINGLOVITZ: The majority of the parking is in the center area.

MS. DUCKWORTH: So it will be in front of the buildings?

MR. WINGLOVITZ: Yes.

MS. DUCKWORTH: We were concerned if they are parking behind the buildings we're going to get even more noise because --

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2 MR. WINGLOVITZ: No. There's no  
3 parking behind the buildings. There is parking  
4 on the ends of this building but nothing behind  
5 it. Nothing behind this building.  
6 MS. DUCKWORTH: And behind those  
7 buildings are there going to be play areas?  
8 MR. WINGLOVITZ: No. Landscaping and  
9 screening.  
10 MS. DUCKWORTH: Okay.  
11 MR. WINGLOVITZ: Some pretty  
12 significant berms.  
13 MS. DUCKWORTH: How high are they?  
14 MR. WINGLOVITZ: Basically in response  
15 to your concerns, there was some pretty  
16 significant berming and landscaping that was  
17 required by the Planning Board.  
18 MS. DUCKWORTH: Two story, one story?  
19 MR. WINGLOVITZ: These are two-story  
20 buildings.  
21 MR. BYCZEK: Are you going to be  
22 filling that in?  
23 MR. WINGLOVITZ: It's cut right in  
24 here. We're trying to get down to grade. This  
25 is a cut and it will be filled in behind them to



1  
2 raise the grade behind the buildings for the  
3 berming.  
4 MR. BYCZEK: When are you going to  
5 start this?  
6 MR. WINGLOVITZ: As soon as we can.  
7 MR. BYCZEK: That's not an answer.  
8 MR. WINGLOVITZ: If I knew that I  
9 wouldn't be an engineer.  
10 MR. TORO: Out of curiosity, what's the  
11 distance between the property line on these  
12 condos going up?  
13 MR. WINGLOVITZ: The property line and  
14 which --  
15 MR. TORO: The distance that's going to  
16 be between the property lines.  
17 MR. WINGLOVITZ: It's all different  
18 depending on where you are. The distance from  
19 the buildings to --  
20 MR. TORO: I'm on the left corner.  
21 MR. WINGLOVITZ: You're here?  
22 MR. TORO: No. Up more. Right there.  
23 MR. WINGLOVITZ: That's your property?  
24 MR. TORO: Yeah.  
25 MR. WINGLOVITZ: That's about ninety to

1  
2 a hundred feet from that building to the property  
3 line.  
4 MR. TORO: A hundred feet?  
5 MR. WINGLOVITZ: Approximately.  
6 MR. BYCZEK: What about the next notch?  
7 MR. WINGLOVITZ: Here?  
8 MR. BYCZEK: Mm'hm'.  
9 MR. WINGLOVITZ: Probably sixty or  
10 seventy feet to the property. The closest point  
11 on the corner of that property to the building is  
12 about sixty or seventy feet. None of that is  
13 proposed to change. This has all remained the  
14 same.  
15 MS. DUCKWORTH: You're cutting it close  
16 at the other corner, aren't you, with that road?  
17 What is that? Yeah.  
18 MR. WINGLOVITZ: This is the access  
19 drive into the project.  
20 MS. DUCKWORTH: Oh.  
21 CHAIRMAN EWASUTYN: Before I make a  
22 motion to turn the meeting over to the  
23 consultants, any final comments from the public?  
24 (No response.)  
25 CHAIRMAN EWASUTYN: Jerry Canfield?

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MR. CANFIELD: All of our previous fire protection concerns have been addressed.

As Mr. Winglovitz has stated, the project was approved earlier last year, however there were some new fire access road requirements put in place by the 2008 Fire Code. The project's representative has made the changes. The access roads do comply.

A note of interest. The applicant's representative has also stated that the buildings will not exceed thirty feet in height per the new Building Code requirements. If so, the wider access roads will apply. Everyone is understandable of that.

MR. WINGLOVITZ: It's thirty feet as defined by the Fire Code.

MR. CANFIELD: Defined by the Building Code. Correct. Not the Zoning Code.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We reviewed the amended plans. The footprints of the former condominium, townhouses, now rental townhouses has been reduced and that allowed the applicant to reduce

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the amount of grading along that portion of the project.

At the previous work session we requested a letter from the applicant's representative regarding the outfall locations and changes to the detention ponds geometry just stating that the ponds will function as originally modeled. There were some slight changes to the grading of the ponds and the outfall locations were changed just in location, not in elevation.

MR. WINGLOVITZ: We put the statement in the letter. We'll give you a separate letter?

MR. HINES: That's what I'm looking for. Just to back up, they were going to function as originally modeled. I'm not looking for a whole new drainage analysis. I just want you to take a look at that.

Also we looked at the road grading. The road grading remained the same except for a very small portion, I think in the upper portion -- right in the steepest part of the project. We don't believe the Health Department approvals are going to be impacted. Those are okay.

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We're just stating that based on the revised grading and the reduced building size, that we believe that the impacts associated with the project will be less rather than greater.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Ross, we want you to take a look at the dumpster enclosures, and the size of them, and how much -- how many units are going to be using each dumpster. Also if there's going to be room for recycling in them. If you can just provide us a detail sheet.

MR. WINGLOVITZ: They're approximately eighteen by nine-and-a-half on the inside -- twenty by nine-and-a-half. I will contact some local haulers, we've done that before, to confirm what we think we're going to need.

MR. COCKS: Also just the recycling areas in there also.

We're also going to need to see if there's any site lighting going to be proposed and what the foot candles are going to be. Just the location of whatever lighting fixtures are going to be there.

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The school-age children was previously discussed by the public. We have taken a look at that and multiplied its use. Since there is a reduction in bedroom count there will be less school children than previously approved.

Looking at the SEQRA documents, the Findings Statement for the Environmental Impact Statement, it was adopted in March of 2006. We're going to have to issue a consistency document regarding this which will address any changes in impact, which almost all of them are lessened because of the reduction in building size. That's it.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: The consultant has compensated for the loss of some trees due to relocating the sports court.

Just if you could list the color of the modular retaining wall.

MR. WINGLOVITZ: The wall?

MS. ARENT: Earth tone as much as possible.

When you're preparing the lighting plan

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include lighting for the dumpster units so that when people go in to them at night they can see what they're doing.

We also spoke at work session about the mailbox locations. If you could design some kind of a shelter for them and make sure that it's going to be feasible for fifty-six people to use one of them. I think John counted fifty-six people were using one unit. You have to just make sure that there's going to be space for people to park and get their mail. Maybe add the mail houses if you think that it might be congestive.

The rest of my comments have to do with landscaping and architecture.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: My comments do address some of the comments that came up from the public, a number of questions.

Starting off with the units changing from ownership to rental and the amount of traffic that's going to be generated by the site as a whole, the way the analysis is set up we focused in on the peak hours of the day. As you

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2 know, traffic fluctuates throughout the day.  
3 Overnight traffic is really low and then you have  
4 everyone pretty -- most people going to work in  
5 the morning, and then throughout the day most  
6 people are at their offices and so forth, and  
7 then everyone is coming home in the evening. We  
8 focused in on the a.m. and p.m. commuter times of  
9 when people are traveling to and from work. The  
10 site as it stands -- as previously proposed, the  
11 site was going to generate approximately 150 to  
12 190 cars during those peak hours. All that  
13 traffic would come in and out of the main site  
14 driveway, Morris Avenue and Route 9W. The change  
15 from the ownership units to rental units, the  
16 traffic is projected to either stay the same or  
17 potentially increase by another five to fifteen  
18 cars during those peak hours. The improvements  
19 that are proposed, as Mr. Winglovitz said, are  
20 turn lanes north and southbound, left turn lanes  
21 on Route 9W, in addition to a right-turn lane and  
22 also a traffic signal at that main intersection.  
23 That intersection, with the improvements and the  
24 traffic from the project, is going to operate at  
25 level of service D and that D is a range from A,



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2 which is really great, to an F which is failing.  
3 The other portion of that traffic signal, the  
4 other improvement that it's going to do is stop  
5 traffic in the southbound direction which will  
6 help people coming out of Oak Street to turn out  
7 of there because you'll have the heavy flow of  
8 Route 9W being stopped by the traffic light.  
9       Some of the other comments included the  
10 phasing and when those Route 9W improvements will  
11 be done. In the phasing schedule, in the first  
12 couple of months construction on the improvements  
13 on Route 9W would begin as well as improvements  
14 to the culvert on Oak Street, and then other work  
15 within the site would continue.  
16       That's all we had.  
17       CHAIRMAN EWASUTYN: Thank you. Frank  
18 Galli?  
19       MR. GALLI: Ross, just what are these  
20 units going to be constructed of? Are they stick  
21 built, modulars?  
22       MR. WINGLOVITZ: They're proposing to  
23 build modulars.  
24       MR. GALLI: The construction noise  
25 besides the excavation should be cut down.

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MR. WINGLOVITZ: A lot of stuff will be built off site and will be set.

MR. GALLI: Not to hold you to it but someone mentioned about them being subdivided. Could you maybe inform them what you're thinking the rents are on these units? A lot of people think rental units are cheap.

MR. WINGLOVITZ: The rental prices have been projected to be from \$1,400 up to \$1,900 depending on where you're at, which size unit you have, so on and so forth, two bedroom, three bedroom, townhouse.

MR. GALLI: Thank you. No additional comment.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I think everything was covered pretty well.

There was one other comment that came up during work session about the association and how it's going to work. Not that we have a whole lot of thing in our Board, we have concerns with the single family up in the back and how that's going to work with the association and responsibility as far as maintenance, road

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maintenance, all those kinds of things. If that hasn't been re-looked at it should be re-looked at again. I don't know if it has been or not.

MR. WINGLOVITZ: We did take a look at it. I expected to probably discuss it with Michael.

MR. DONNELLY: Originally there was going to be a condominium association and a homeowners association. I take it now we're going to have the rental unit owners and then the individual homeowners all joining into one homeowners association.

MR. WINGLOVITZ: No. That's not what we proposed. That's what we originally thought. In fact, I think I did discuss that when Cliff asked that question. As we looked at it, what we're proposing is this be an HOA with easement rights across the apartment owner's property. The apartment owner would have all the responsibilities for maintenance.

MR. DONNELLY: Of the roadway?

MR. WINGLOVITZ: Of the roadways and infrastructure.

CHAIRMAN EWASUTYN: That makes sense.

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MR. HINES: The single-family homes would be responsible for their portion of the roadway?

MR. WINGLOVITZ: Yup. They'll be responsible for basically their two cul-de-sacs. There will be a cross-easement granted back for emergency access.

MR. DONNELLY: So then all of the private roadways and drainage systems in the rental portion of the project are to be maintained by the rental operator?

MR. WINGLOVITZ: Correct.

MR. DONNELLY: And all private roadways and drainage systems in the single-family home portion of the project are to be maintained by the homeowners association?

MR. WINGLOVITZ: Correct.

CHAIRMAN EWASUTYN: Cliff, any additional comments?

MR. BROWNE: If it's all been looked at and it's agreeable with everybody from a legal standpoint, that's good.

MR. MENNERICH: How will the maintenance of the recreational facilities be

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handled, Ross?

MR. WINGLOVITZ: That's going to be the responsibility of the property owners.

MR. MENNERICH: But the people that own the houses will still be able to use those recreation --

MR. WINGLOVITZ: That we haven't discussed yet. I probably think not in this case. They're going to be larger single-family homes. I would think we're not going to include them.

MR. MENNERICH: That's all.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have nothing, John.  
Thank you.

CHAIRMAN EWASUTYN: Mike, where are we at this point in time with the process?

MR. DONNELLY: Well, several things I think will need to occur. One is I suggest that before the Board grants an amended approval you should surrender the conditional final subdivision portion of the approval which would return you to preliminary status, and then when the Board acts you would be getting in effect a

1  
2 new conditional final subdivision approval and it  
3 would have its own maximum life of 360 days.

4 I've gone through the existing  
5 resolution and I do have some questions about  
6 some of the conditions. I could run through them  
7 now. I don't know if you want to close the  
8 hearing first, John, or how you want to handle  
9 that.

10 CHAIRMAN EWASUTYN: Any additional  
11 questions from the public before I move for a  
12 motion to close the public hearing?

13 (No response.)

14 CHAIRMAN EWASUTYN: I'll move for a  
15 motion from the Board to close the public hearing  
16 on the amended site plan and subdivision for the  
17 Orchard Hills site plan.

18 MR. GALLI: So moved.

19 MR. MENNERICH: Second.

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

23 (No response.)

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

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MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike, do we make a consistency determination now?

MR. DONNELLY: Before you take action you need to issue a consistency determination which is your finding that there are no significant adverse impacts presented by these changes not already addressed in the E.I.S. documents and there is nothing in the Findings Statement that prohibits these changes, therefore neither document needs any amendment.

CHAIRMAN EWASUTYN: Okay. Having heard the conditions for a consistency determination presented by Attorney Mike Donnelly, I'll move for that motion.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Ken Mennerich.

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2 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. BROWNE: Aye.  
8 MR. MENNERICH: Aye.  
9 MR. PROFACI: Aye.  
10 CHAIRMAN EWASUTYN: Myself yes.  
11 The next action I think, Mike, is for  
12 the applicant to rescind his conditional final --  
13 MR. DONNELLY: Final subdivision  
14 approval.  
15 CHAIRMAN EWASUTYN: -- subdivision  
16 approval.  
17 MR. WINGLOVITZ: We would so request  
18 that approval be rescinded.  
19 CHAIRMAN EWASUTYN: Okay.  
20 MR. DONNELLY: That puts him back to  
21 preliminary.  
22 CHAIRMAN EWASUTYN: Should we make a  
23 motion to that effect to grant that?  
24 MR. DONNELLY: To accept it, why not.  
25 CHAIRMAN EWASUTYN: I'll move for a



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motion to accept the rescinding of the conditional subdivision approval for the Orchard Hills subdivision.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have motion by Frank Galli. I have 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Mike, if you would address, please, the changes in the --

MR. DONNELLY: There are in essence three approvals that are needed here, that is an amended final subdivision approval, and I take it from what you said earlier, Pat, there's no need for this to go back to the Health Department so

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it's eligible for final.

MR. HINES: That's correct.

MR. DONNELLY: And then an amended final site plan approval. Separately, and I don't think this piece is ready yet, Architectural Review Board approval.

Certainly on the site plan and subdivision, which I think can be done simultaneously, we will need a sign-off letter from Pat Hines, from Karen and from Bryant Cocks relating to the issues they just discussed and that are contained in their memos.

Because the issue came up this evening, I think we should add a condition that says that the traffic light is to be installed and operable before the first certificate of occupancy is issued.

There was a requirement in the original resolution of a developer's agreement, and I believe that condition should continue to be carried.

Of course the bonding amounts that are set forth in the developer's agreement will have to be posted according to the terms of that

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agreement.

I've split the earlier condition regarding maintenance of roadway and drainage into the two pieces we just discussed, that is one piece for the rental unit segment of the road and drainage and a second piece that requires maintenance of the sections of the private roadway in the single-family home section for the homeowners association to be created. Naturally there will need to be an easement recorded that provides the single-family homeowners the right to use the rental portion of the roadway.

There was a requirement, and it may have been satisfied by now, that a transportation corporation be created to operate the sewer plant. I'll leave the condition in the resolution for the time being.

A landscape bond.

The requirement that Ross mentioned earlier, that the Oak Street culvert must be completed to the satisfaction of the town engineer before any construction activity including site grading is begun.

We had a condition, and I see no reason

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to change it, that unless the recreational facilities proposed are completed and operational within nine months after issuance of the first residential CO, then no further residential CO shall be issued until those facilities are completed and operable.

We had earlier conditions requiring sign-offs by Pat Hines and Karen but they're being replaced by the newer ones.

We had a condition requiring a wetlands delineation and the issuance of a permit for disturbance activities from the Army Corp or a letter reporting that those activities are covered under a general permit, and I see no change there.

We need DOT approval of the proposed driveway utilization and a requirement that if it's not approved that the applicant return for amended approval. I assume that that's been granted by this point in time I'll give it that you've reported that the traffic light has now been approved.

There was a condition, and I think we should carry it as well, that the approval is

1  
2 conditioned upon delivery of a written approval  
3 from the town engineer and the Town Board  
4 regarding a satisfactory agreement concerning the  
5 maintenance and, if necessary, access to the  
6 water system. Has that been resolved? Do you  
7 know, Ross?

8 MR. WINGLOVITZ: No, it has not. Keep  
9 it in there.

10 MR. DONNELLY: The Health Department.  
11 The other agency approvals were Health Department  
12 for water main extension, realty subdivision and  
13 for the orchard soil remediation. Those  
14 approvals, should they still be recited?

15 MR. WINGLOVITZ: Yeah. They were all  
16 provided. We'll make sure everything is in the  
17 file.

18 MR. DONNELLY: And a stormwater SPDES  
19 from the DEC. We'll recite them all, that way  
20 there will be a checklist for later on.

21 Again, the Health Department soil  
22 remediation plan. If the Health Department  
23 proposes changes that affect the layout, you'll  
24 have to come back for an amended approval.

25 There was a requirement that you would

1  
2 show the proposed school children pick-up areas  
3 with the location near the roundabout being  
4 sheltered from the elements. That's been done.  
5 The homeowners association documents  
6 were to be delivered to the town attorney for  
7 review, particularly in regard to a single  
8 garbage collection contractor for the project. I  
9 take it even though it's now rental and single-  
10 family homes we're still going to pursue the  
11 single trash collector --  
12 MR. WINGLOVITZ: Yeah.  
13 MR. DONNELLY: -- for the entire  
14 project?  
15 MR. WINGLOVITZ: I don't know if we  
16 need that restriction for the single-family  
17 homes. It's going to be probably an individual  
18 hauler, whoever they decide.  
19 MR. DONNELLY: Well we had it in the  
20 condominium association. I guess that's an issue  
21 for the Board. Do you feel it's necessary to  
22 have a single trash hauler for the single-family  
23 homes? You did not in the original. You only  
24 required it for the condos. Maybe this condition  
25 goes away. The rental unit will obviously have a

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single one.

MR. GALLI: They can hire whoever they would like.

MR. MENNERICH: It's a different type of pick up than you would get from the rental area.

MR. DONNELLY: So we'll take out that portion regarding garbage.

And then finally the payment of -- well, it isn't final. The parkland fees for the units in the project.

There was a stormwater security and inspection fee, water main extension inspection fee, private road security inspection fee, the usual requirement that prohibits the construction of any outdoor fixtures not shown on the site plan, and the standard general conditions.

CHAIRMAN EWASUTYN: The few comments that still have to be looked at in reference to site lighting, whether or not there's adequate --

MR. DONNELLY: Dumpster locations. They'll be in the sign-off from Bryant.

CHAIRMAN EWASUTYN: And also recycling areas and site lighting, there will be a sign-off

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from Bryant.

Approval of private road names, do you have that?

MR. WINGLOVITZ: Yeah. I actually did meet with them and we do have something. Put that in there. That's fine. I'll produce it for you.

CHAIRMAN EWASUTYN: Additional comments from Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

MR. MENNERICH: No questions.

MR. PROFACI: No thank you, John.

CHAIRMAN EWASUTYN: Mike, the motion before us is to approve the amended subdivision and site plan based upon the conditions in the resolution that you just prepared for us?

MR. DONNELLY: Correct.

CHAIRMAN EWASUTYN: I'd move for that motion.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by



1  
2 Ken Mennerich. I have a second by Joe Profaci.  
3 Any discussion of the motion?  
4 (No response.)  
5 CHAIRMAN EWASUTYN: I'll move for a  
6 roll call vote starting with Frank Galli.  
7 MR. GALLI: Aye.  
8 MR. BROWNE: Aye.  
9 MR. MENNERICH: Aye.  
10 MR. PROFACI: Aye.  
11 CHAIRMAN EWASUTYN: And myself. So  
12 carried.  
13 Thank you for attending.  
14 MR. WINGLOVITZ: Thank you very much  
15 for your time.  
16 MR. DONNELLY: So you reserve the ARB  
17 for a later date?  
18 CHAIRMAN EWASUTYN: I don't think  
19 you're prepared with ARB, are you? Are you  
20 prepared for ARB at this point?  
21 MR. WINGLOVITZ: We did submit  
22 elevations that Karen made comments on. I'd ask  
23 the foundation landscaping also be wrapped into  
24 that. Karen had a number of comments. I would  
25 like to meet with her to go over those comments

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and then come back to the Board.

CHAIRMAN EWASUTYN: I would like to move -- when do you think you would be ready? We would set this up for a consultants' work session to review that. When do you think you might have those plans available?

MR. WINGLOVITZ: I have them -- would you be -- Bryant, when is your next consultants' meeting?

MR. COCKS: The 24th.

CHAIRMAN EWASUTYN: Could you be available on the 24th?

MR. WINGLOVITZ: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion to set this up for a consultants' work session to review the ARB for Orchard Hills.

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 move for a roll call vote.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

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MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So  
carried.

Thank you.

MR. WINGLOVITZ: Thank you very much.

(Time noted: 8:20 p.m.)

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

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

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DATED: June 18, 2008

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

----- X  
In the Matter of

PATTY CAKE CHILD CARE  
(2007-31)  
NYS Route 9W and North Hill Lane  
Section 24; Block 1; Lot 2.1  
B Zone

----- X

CONCEPTUAL SITE PLAN

Date: June 5, 2008  
Time: 8:21 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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- X

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

1  
2 MS. HAINES: The next item of business  
3 we have is Patty Cake Child Care. It's here for  
4 a conceptual site plan. It's located on the  
5 northeast corner of Route 9W, it's in a B Zone  
6 and it's being represented by Greg Shaw.

7 MR. SHAW: Good evening. With me  
8 tonight is Anthony Coppola. If the Board will  
9 allow, after my presentation I would like Anthony  
10 to introduce the architecture of the project.

11 Also with me tonight are the owners  
12 of Patty Cake Daycare Center, the Conklins. Mr.  
13 Conklin would like to have a word with the Board  
14 after my presentation. Finally, we have Michelle  
15 Tuttle who operates the daycare center. Any  
16 particular questions you have on the existing  
17 operation or the proposed operation she would be  
18 more than happy to answer.

19 The parcel is in a B Zone which abuts  
20 up against an R-3 Zone located at the  
21 intersection of 9W and North Hill Lane. It's 1.3  
22 acres in size.

23 We originally came before this Board  
24 last year for a referral to the Zoning Board of  
25 Appeals. In November the applicant was

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successful in getting their required variances from the Zoning Board of Appeals with respect to rear yard setback and also setbacks with respect to the buffers and the setback segments of the Zoning Ordinance.

Our proposal before you is to construct a new addition to the daycare center. It's going to be 5,068 square feet in size and that will be spread over two stories. Basically we're going to be redeveloping the site.

The existing parking area is going to be removed and it's going to be replaced with a new parking area totaling thirty-one spaces. Along with that we're providing an access point out onto North Hill Lane for the convenience of the parents who are going to pull in, drop off children and exit in that fashion if they're going to be heading in a southerly direction.

We are proposing that the existing building and the new building be tied in to the Town's water system and that the new building will be sprinklered.

With that we're proposing a new sewage disposal system for the wastewater

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generated by the new addition. Along with that we've also provided an expansion area of one-hundred percent capacity as required by the New York State DEC standards.

Finally with that, with respect to stormwater discharge, because there will be an increase in impervious area, we're proposing an underground stormwater detention system which will be located in the parking lot area and which will consist of I believe 36-inch pipes which will collect the stormwater, detain it and release it into the stream which flows along -- actually it's a drainage course which flows in the rear of the property and flows in a northerly direction.

That's a brief overview. We've submitted complete plans, everything from grading, to the septic system design, to the water, to the landscaping, to the lighting and associated construction details.

With that maybe -- Ira, would you like to come up and express your thoughts and then when the Board is ready we'll have Anthony come up.

1  
2 MR. CONKLIN: Good evening. My name  
3 is Ira Conklin, I along with my wife Donna own  
4 the daycare center. Our daughter Michelle is the  
5 director of the center. We just want to talk to  
6 the Board a little bit about what we're trying to  
7 do is put an addition on an existing building.  
8 Some of the items that we've been asked to do  
9 will be beautiful but, I don't know, there seems  
10 to be a lot of questions about the stonewall.  
11 It's required, you know, possibly or possibly not  
12 to have a stonewall. I have a large stonewall on  
13 my own home and I love the look of it but I don't  
14 know if it really fits in this particular  
15 location for what we're trying to do. Maybe an  
16 alternate of some kind of a fence or something  
17 like that. A white picket fence possibly might  
18 do us.

19 Also for us, just for you to know  
20 something that I didn't, in the entire Town of  
21 Newburgh there's only fifteen spots for infants  
22 in an accredited New York State daycare center.  
23 In the entire Town of Newburgh there's fifteen  
24 places for infants. We've got parents now, which  
25 Michelle can talk to you about, that are having



1  
2 children, wanting to -- wanting to bring -- you  
3 know, keep the older kids with us and bring the  
4 new kids in and we're turning them away. A  
5 parent that's got to split the kids up is  
6 definitely not -- I don't want to say irrational  
7 but can get pretty heated. We're trying to  
8 accommodate it.  
9 I guess the reason to bring that up  
10 is I'm asking if there's any way we can -- you  
11 know, we've been up for a year with the zoning  
12 and everything else. We're trying to get going,  
13 trying to get folks a date that we can get going.  
14 I'm looking for any help that the Board could  
15 allow us, to give to us that we could fast track  
16 this, if that's the right word or not, but to try  
17 to address any issues we have. We want to -- the  
18 girls want a great facility. We just had one of  
19 the director -- the --  
20 MS. TUTTLE: My name is Michelle  
21 Tuttle, I'm the director of Patty Cake. We have  
22 a licenser, she's no longer our current licenser  
23 but she actually came back to us yesterday with  
24 the biggest compliment in the world. She just  
25 adopted a little girl and she came to us with her

1  
2 baby and said I wouldn't bring her anywhere else.  
3 That's a huge compliment coming from someone who  
4 visits daycares for a living. They're the ones  
5 that come in. They try to look for things that  
6 are wrong. She wanted her child to come to us.  
7 Again, we didn't have the room. To kind of  
8 piggyback on what Ira was saying, I just ran  
9 through some numbers today because I knew we were  
10 coming here. We have eight of our current  
11 parents with children in older classrooms,  
12 whether it be two, three, four. Eight of our  
13 parents are expecting babies in the next couple  
14 of months and we have no room for their babies.  
15 Like Ira was saying, they have to decide if  
16 they're going to separate their children or pull  
17 them both out. There's only one other center in  
18 the Town of Newburgh that takes infants. We have  
19 eight infant spots, they have seven. They're  
20 just as full because we're hearing the same  
21 thing, we already went there. There's no room in  
22 the Town of Newburgh. Also, aside from  
23 those eight parents who are current customers, we  
24 have a waiting list where on the waiting list  
25 seven of these infants are looking for anything

1  
2 from September to January, which obviously, you  
3 know, we can't work miracles, we can't build  
4 buildings and get it up by September. An infant  
5 room, the maximum capacity is eight children.  
6 Between the eight parents that we already have  
7 that need care, including my own baby who is due  
8 in January who I won't be able to bring to my own  
9 school with me, the seven other infants on the  
10 waiting list, that would fill the sixteen infant  
11 spots that we're proposing to open, that alone by  
12 December. That's just people as of now that we  
13 have on the waiting list.

14 Another big problem we're finding is  
15 we have pre-K children who usually will stay with  
16 us. We have an after-school program that  
17 accommodates Marlboro School District. Currently  
18 we can have fourteen after-school children. In  
19 our pre-K classroom this year we had eight  
20 children who just assumed that next year when  
21 their children went to kindergarten in Marlboro  
22 their kids were going to be getting off the bus  
23 and staying with us. Because none of our fourteen  
24 children aged out of that program, once again  
25 families that have been with us since day one, we

1  
2 now are telling them you're going to have to find  
3 somewhere else. That's hard when you've watched  
4 children growing up and they're comfortable. We  
5 have a lot of parents who think we can just make  
6 room when they don't realize we have to follow  
7 certain ratios and group sizes. They're really  
8 asking us to make miracles and we're asking you  
9 to help us make miracles and make room for the  
10 Town of Newburgh. Thank you.

11 CHAIRMAN EWASUTYN: Talking about  
12 miracles; Mr. Shaw, are you planning any more  
13 children?

14 MR. SHAW: No, thank you.

15 MS. TUTTLE: One more thing. Another  
16 example of the overflow and the waiting list, the  
17 project ahead of us that's going to be right down  
18 the road from us, that's a lot -- we were in the  
19 back room "we approve". That's a lot of kids  
20 that are -- a lot of families. Whether it went  
21 from three bedrooms to two, there's still going  
22 to be a child there, and all the children start  
23 in pre-school. In order to afford \$1,900 in rent  
24 both parents need to work.

25 MS. CONKLIN: I'm Donna Conklin, I'm

1  
2 one of the owners. What I think people don't  
3 realize is there's a misconception. You have  
4 beautiful facilities. You have Tots-N-Us, and  
5 they're not a daycare. That's what people think,  
6 you see these buildings. We're a nursery school  
7 and daycare. They can't take infants there. The  
8 youngest they can take them is 2.9 and they have  
9 to be potty trained. The only facility in the  
10 Town is Building Blocks, which I know they have  
11 been in front of -- I don't know if they're in  
12 front of the Planning Board or Zoning Board but  
13 they're crying --

14 MR. HINES: Don't bring that up.

15 MS. CONKLIN: I know. They're the  
16 only facility. When you see Miss Cindy's and you  
17 see, you know, all these other ones, they're not  
18 daycare centers. The problem with those -- the  
19 reason we're going the way we're going is because  
20 our belief is, and Michelle said, the ratios are  
21 lower. You have a one-to-four ratio in an infant  
22 room, a one-to-five on a toddler/teacher ratio.  
23 You're not making as much money as you are with a  
24 pre-K where it's a one-to-eight ratio. If we can  
25 get the families in they're going to stay with

1  
2 us. You know, you form that bond, you have those  
3 relationships with the parents. But, you know,  
4 it's just a misconception out there. If you  
5 don't have kids and you don't know the State  
6 standards we have to follow with New York State,  
7 which is something totally different, you  
8 wouldn't realize that we're not them. We're  
9 totally different. Thanks.

10 CHAIRMAN EWASUTYN: We've been applying  
11 standards throughout the Town now with stonewalls  
12 just to set a tone for the Town. We're looking  
13 at your project even as far as site lighting, we  
14 were discussing the possibility of tying that in  
15 with an existing style of lighting that would set  
16 a flavor for the tone. So right now it really is  
17 a standard that early on in stages -- we  
18 discussed Armstead Mechanical, I don't know if  
19 you're familiar with the building, where they  
20 found it a little more difficult to build with  
21 traditional fieldstone. They took the native  
22 stone there on the property and built a wall.

23 Ira, right now it's kind of in  
24 keeping with the early stages of what we're  
25 looking to do.

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I'll poll my Board Members for their consensus. Frank Galli?

MR. GALLI: We have a new project going in on 9W not far from you, across the street, and they're putting in a beautiful stonewall. We just think the businesses coming on to 9W now, they need to set a tone like they did on 52 where you see all the stonewalls, and 32. We just feel it's something that the Town is actually -- to beautify the Town. I think it would beautify your project. I had children that went to that school years ago. Like I said, I think it's something that would help you. We need to start somewhere.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Same.

CHAIRMAN EWASUTYN: Ken Mennerich.

MR. MENNERICH: I agree also. I mean I think anybody that goes up that 9W corridor realizes there could be great improvements made. You've got to start someplace. This building, which, you know, originally was a house and it turned into a -- it's going to be a big school type building now, it would look nice to have it

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show nice from 9W.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: What is the adversity to the stonewall?

MR. CONKLIN: Cost.

MR. PROFACI: That's what I figured. Okay. That's all I have to say.

CHAIRMAN EWASUTYN: We'll take comments from our consultants. Jerry Canfield?

MR. CANFIELD: Our comments are pretty much minor in nature. They've been reviewed with Mr. Shaw.

As we discussed in the work session, the hydrant that's placed on the site, that entrance driveway, the south entrance driveway will need to be widened to 26 feet for a distance of 20 feet on each side of the hydrant.

We discussed possibly tucking the west curb over a little bit, making that space.

As Mr. Shaw said, the building will be sprinklered.

An additional item is two handicap parking spaces are required. There's one on the site, however there is room for two with the



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loading zone in the middle.

Design considerations should be given to the underground stormwater system in the front of the building to withstand the weight of a fire apparatus.

The next item is just a point of interest. Thirty feet building height is the magic number for twenty-six feet access road widths. This building as per the architectural shows it at twenty-nine feet eleven inches. That's very close, however if that's what it is, it is what it is. Probably the best way to handle that is at completion of construction I'll ask the architect for a certificate that it does meet the twenty-nine feet eleven inch criteria.

Other than that, that's all we have.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We had a comment regarding the traffic at North Hill Lane and we addressed that at work session with Ken.

We heard the jurisdictional fire department's comments.

DOT permits will be required for the modification to the DOT's drainage which is going

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to be wrapped around the site to the north.

We need the modification to the sprinkler system such that the valving is installed. If the sprinkler system is turned off the potable water to the facility is also turned off. They just need to move the valve to the other side.

I had some comments on the septic system. I had an opportunity to discuss them with Mr. Shaw. There was some confusion regarding the fact that half of the existing building will remain on its existing septic system and the new addition will be serviced by its own septic system, so my septic comments regarding design flow, flow rates, et cetera have been addressed by the fact there will be two septic systems serving the site.

We've reviewed the stormwater management report. The project disturbs less than an acre so there's only quantity control required. We found that report to be acceptable.

The design of the under parking lot storage utilizes conventional culverts which are buried sufficient enough to address Jerry's

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comments regarding loading for the fire apparatus.

With that the majority of our comments have been addressed. With the stormwater and the septic systems being addressed, we're comfortable with a neg dec.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The applicant was before the Zoning Board. They were granted variances for a rear yard setback, commercial to residential setback and a rear yard buffer. The ZBA also ruled that the use variance for the site that was granted in 1994 still applies.

In regards to the stonewall in the front, the Town of Newburgh also enacted design guidelines recently, sometime last year. In the design guidelines it's stated that parking is proposed to be moved to either the rear or the side of the building. Since the current building, the parking is already in front there's going to be a need to screen the parked cars. That was the main reason for the stonewall.

The applicant right now is showing

1  
2 twenty-foot high shoe box type lighting. The  
3 design guidelines also state that lighting should  
4 be pedestrian height and no higher than sixteen  
5 feet. The Planning Board also should discuss  
6 whether a decorative fixture could be used on the  
7 site.

8 Other than that, the plans were  
9 forwarded to the Orange County Planning  
10 Department on October 3rd. We never received  
11 comments back from them. There's a thirty-day  
12 timeframe which is up, so that is not required.

13 Other than that, they addressed all  
14 our comments regarding lot layout.

15 CHAIRMAN EWASUTYN: Karen Arent,  
16 Landscape Architect?

17 MS. ARENT: I have a suggestion that  
18 might make the project nice looking and also  
19 reduce some of the stonewalls. I think that if  
20 you perhaps eliminate the stonewall on the corner  
21 where the lawn area is and bend the stonewall  
22 around the parking area from the corner, you  
23 would keep a view over the lawn area which is  
24 going to be fairly nice looking, and as long --  
25 the stonewall could bend around the parking area.

1  
2 I think that would look very nice if the Board  
3 would want to entertain an idea like that.  
4 Perhaps you can keep the entry walls, the  
5 secondary entrance. I can show you better what I  
6 mean. I can come up and just show you quickly  
7 what I mean. It would be nice to keep the open  
8 space. The stonewalls would serve the purpose of  
9 providing the screening for the parking if it  
10 just bent around here and these stonewalls  
11 perhaps remained and were equal distance. If  
12 this stonewall is removed you would open up the  
13 view of the lawn over to the facility. I don't  
14 think it would -- I think it might actually  
15 enhance the look and give more of a perception of  
16 open space because this will always stay green.  
17 MR. SHAW: Correct. Absolutely.  
18 MS. ARENT: That's just an idea to  
19 entertain. If you did that I would just line up  
20 these trees and --  
21 MR. SHAW: You're talking about  
22 possibly wrapping along this?  
23 MS. ARENT: Right. I would just leave  
24 the entrance.  
25 MR. SHAW: Fine.

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CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: I don't have a problem with that. As long as the wall is kept up with something decent, nice.

MR. BROWNE: I agree.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Karen, what about on the north end. Should that be curved a little bit there?

MS. ARENT: That would be nice if the north end did curve a little. That would keep it all -- see what Ken is talking about?

MR. SHAW: I understand.

MS. ARENT: My other comment was just in regard to the trees, to change them to bigger trees that are less likely to blow over and cause a future site obstruction.

MR. SHAW: We can change that.

CHAIRMAN EWASUTYN: Ken Wersted, have you looked at any concerns as far as sight distance safety in reference to traffic?

MR. WERSTED: Our concern was the sight distance at the existing driveway, and that's being addressed through the removal of the

1  
2 existing plantings that are along 9W. Those can  
3 interfere with the sight distance. Landscaping  
4 is being pulled back to approximately the  
5 property line and providing plenty of room for a  
6 car to pull up to 9W and see without the  
7 interference of those existing plantings.  
8 CHAIRMAN EWASUTYN: Comments from Board  
9 Members. Frank Galli?  
10 MR. GALLI: No additional.  
11 MR. BROWNE: Nothing else.  
12 CHAIRMAN EWASUTYN: Ken Mennerich?  
13 MR. MENNERICH: Nothing.  
14 CHAIRMAN EWASUTYN: Joe Profaci?  
15 MR. PROFACI: No.  
16 CHAIRMAN EWASUTYN: The motion before  
17 the Board this evening is whether or not the  
18 Planning Board would like to have a public  
19 hearing on the site plan.  
20 MR. GALLI: No.  
21 MR. BROWNE: No.  
22 MR. MENNERICH: No.  
23 MR. PROFACI: No.  
24 CHAIRMAN EWASUTYN: Okay. The Board  
25 has motioned not to have a public hearing.

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Bryant, your recommendations as far as the SEQRA determination?

MR. COCKS: I think we should declare a negative declaration. There's not going to be -- since it's already existing there's not going to be much more impact on the land or the community.

CHAIRMAN EWASUTYN: I'll move for a motion to declare a negative declaration for the -- first of all, I'll move for a motion to grant conceptual approval for the Patty Cake Child Care center.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So



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carried.

I'll move for a motion to declare a negative declaration for the Patty Cake Child Care facility.

MR. GALLI: So moved.

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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Mike Donnelly, would you give us conditions for final approval for the Patty Cake Child Care facility?

MR. DONNELLY: It's going to be subject to a DOT approval for the driveway modification. We'll need a sign-off letter from Pat Hines, from

1  
2 Bryant and Karen on the stonewall detail. I  
3 think we'll look at ARB in a moment, so we'll put  
4 that one aside. A landscape security and  
5 inspection fee will be required. I don't think  
6 there are any other required securities. The  
7 traditional or standard condition regarding  
8 outdoor fixtures and amenities can not be  
9 constructed unless shown on the site plan.

10 CHAIRMAN EWASUTYN: The one issue  
11 before we move on that; the site lighting, Bryant  
12 raised the issue of the Planning Board's  
13 determination as far as a sixteen-foot high  
14 lighting and the style of lighting. Does the  
15 Board have an opinion on that beside the height  
16 being sixteen feet as far as the head of the  
17 fixture?

18 MR. GALLI: Whatever they recommend.

19 CHAIRMAN EWASUTYN: Ken?

20 MR. MENNERICH: I guess my question to  
21 Greg would be how many poles would there be  
22 sixteen versus the twenty foot, just to get an  
23 idea?

24 MR. SHAW: I believe there's six poles  
25 right now, and that's at twenty feet. To be

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honest with you, I thought twenty foot was acceptable. Maybe I'm wrong. I'm guessing if you were going to get down to sixteen feet in height, probably at least two, maybe three.

CHAIRMAN EWASUTYN: Do you think that many, Bryant?

MR. COCKS: I'm not sure. I haven't seen the foot candles.

MR. SHAW: That's just a guess.

MR. CONKLIN: If I could just add one thing if I could. Just a reminder that we're open five days a week. Drop off, the earliest is 7:00 a.m., the latest pick up is 6:00 p.m. We've only got about forty days where we have to deal with night. Right now we've only got six flood lights on the building that handle around eighty to ninety people. I want it to look good so I'm not against the lighting but just a reminder as we keep adding things maybe it's not that necessary to add a lot more. I think what Greg has designed would be sufficient for us to operate the facility after running for several years.

CHAIRMAN EWASUTYN: We're just keeping

1  
2 in what we're doing along the corridor. With the  
3 Dunkin Donuts I think the height was sixteen feet  
4 also, and we're looking for that same  
5 consistency. It's very important for the Board  
6 to sort of keep with the consistency. It may not  
7 seem important to you but then nothing can be  
8 done based upon being arbitrary where we do one  
9 for one and one for the other. Consistency is  
10 what works for us as far as winning lawsuits in  
11 the long run. We're challenged with many  
12 lawsuits in the Town. It's more from competition  
13 from actions that we've actually made. It's  
14 important we dot our Is cross our Ts and win  
15 lawsuits. Consistency is what drives us. It's  
16 not so much the cost factor and how it affects  
17 others. I apologize for that but it's just the  
18 process we're at today. I think you know from  
19 lawsuits.

20 MR. CONKLIN: I think also we're not  
21 a typical Dunkin Donuts or somebody that's  
22 selling something to somebody. We're a daycare  
23 center, we only operate five days a week and  
24 limited, not to until 9:00 to 10:00 at night.  
25 That was my only comment.

1  
2 CHAIRMAN EWASUTYN: Really the question  
3 before us is the height. We agree we're going to  
4 have a sixteen-foot height. Now it's just a  
5 matter of the head on the fixture itself.  
6 You're satisfied with the head that  
7 you're presenting?  
8 MR. SHAW: Yes.  
9 CHAIRMAN EWASUTYN: Board Members.  
10 Frank Galli?  
11 MR. GALLI: I don't have a problem with  
12 that.  
13 MR. BROWNE: Okay.  
14 MR. MENNERICH: Okay.  
15 MR. PROFACI: Fine.  
16 CHAIRMAN EWASUTYN: Just reduce the  
17 height to sixteen feet.  
18 MR. SHAW: Mr. Chairman, just one  
19 point. The attorney in reviewing the conditions,  
20 he said modifications to the highway entrance.  
21 There are no modifications to the highway  
22 entrance. It's the State storm drainage system  
23 that has to be modified. Thank you.  
24 CHAIRMAN EWASUTYN: AJ, I see you're  
25 dressed.

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MR. COPPOLA: I waited all night.

CHAIRMAN EWASUTYN: I'll move for a motion to approve the site plan based upon the resolution that was presented by our Attorney, Mike Donnelly.

MR. HINES: We just need to add the highway superintendent's sign off to the access to North Hill Road.

CHAIRMAN EWASUTYN: So we'll add that.

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.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. SHAW: Thank you.

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MR. COPPOLA: Real quickly, just to go over the architecture, this is what we're proposing inside and the exterior material. Inside as it was stated, this was originally a split-level house. You can clearly see that from the exterior. The existing daycare facility right now is about 4,200 square feet. It's a split level so there's some issues with handicap accessibility now from one side to the other going up half a flight of stairs.

Basically what we're proposing new is an additional 5,000 square feet, so the total of the existing and the proposed would be 9,300 square feet. The new area will be flush with this portion of the building that's on the south side and will basically create a new entrance and several new classrooms, three new classrooms on the first floor, two classrooms on the second floor, two sets of staircases for the second floor for two means of egress. The entire first floor will be accessible. The second floor is not required under the State Building Code to be accessible. All the classrooms will have handicap accessible bathrooms on the first floor

1  
2 and wet areas. Basically as far as  
3 what we're proposing, we have kind of a dark  
4 photo here but everybody is probably familiar  
5 with the existing building. Again, it has kind  
6 of a brownish tone right now. That's going to be  
7 completely changed and upgraded. The entire  
8 facade will be changed. Basically the most  
9 dynamic material here is going to be the  
10 introduction of a new red metal roof that goes  
11 across. I really have to credit Donna and  
12 Michelle with that choice. I think that's  
13 something they had in their mind and I think it's  
14 totally appropriate for this kind of building.  
15 So that's going to be basically the new and the  
16 existing. The existing roof will be removed and  
17 we'll put the new red metal roof on that.  
18 The siding materials will be vinyl  
19 siding. We're choosing two different materials,  
20 two different textures, regular vinyl siding and  
21 basically a cedar shake vinyl siding, and then  
22 basically the cultured stone will be down at the  
23 base here, around the base of the building there.  
24 We have those materials here, the cultured stone,  
25 I've got the siding, I've got the trim, and I've



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got the red metal roof shingle there, too.

Going back to Greg's site plan, there's plenty of landscaping in the front, and I think we've depicted that fairly accurately to what the site plan shows. I think on his site plan too the condensers are all located in the back which is I know something of a concern of the Board.

I think Jerry is correct, I think that's just under thirty feet from the portion of that roof to the ground.

CHAIRMAN EWASUTYN: As a follow up for the consultants' work session that you were at recently, you addressed those issues.

MR. COPPOLA: I think we are going to match the stone with -- the cultured stone with the stone for the field stonewall out front. So we will detail that and get that on one of our drawings.

CHAIRMAN EWASUTYN: Karen, you reviewed this at the work session.

MS. ARENT: We didn't see the colors of the building at all. This is all new to us at this time.

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2                   CHAIRMAN EWASUTYN: Okay. Do you want  
3 to comment on the colors at all?  
4                   MS. ARENT: I just need to look at the  
5 samples. The samples look much better than the  
6 drawing. I was afraid this was pink. That's  
7 much nicer.  
8                   MR. COPPOLA: And the cultured stone is  
9 here.  
10                  MS. ARENT: I would just make sure --  
11 that looks like it might have a lot of orange in  
12 it.  
13                  MR. COPPOLA: Okay.  
14                  MS. ARENT: I don't know that the stone  
15 out front would have as much color as that.  
16                  MR. COPPOLA: We can certainly take a  
17 look at that.  
18                  MS. ARENT: If there's something  
19 like --  
20                  MR. CONKLIN: If we could match it  
21 with the grays and blues.  
22                  MS. ARENT: That's exactly what we're  
23 looking for, to get a consistency provided. It  
24 works with the rest of the coloring of the  
25 building.

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2 MR. CONKLIN: Right.  
3 MS. ARENT: That would be it.  
4 CHAIRMAN EWASUTYN: Bryant, do you want  
5 to add anything?  
6 MR. COCKS: Not at this time.  
7 CHAIRMAN EWASUTYN: Pat Hines?  
8 MR. HINES: No.  
9 CHAIRMAN EWASUTYN: Jerry Canfield?  
10 MR. CANFIELD: No.  
11 CHAIRMAN EWASUTYN: Everyone is  
12 entitled to an opinion. Frank Galli?  
13 MR. GALLI: Nothing.  
14 MR. BROWNE: Nothing.  
15 CHAIRMAN EWASUTYN: Ken Mennerich?  
16 MR. MENNERICH: I like the color of the  
17 sample better than the crayon job.  
18 MR. PROFACI: Going for the cupcake  
19 look. Can I see the stone?  
20 MR. COPPOLA: This sample. She's saying  
21 this here.  
22 MR. PROFACI: This is really more red  
23 over here. If you can keep more towards the  
24 natural stone.  
25 MR. COPPOLA: Yup.

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CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: During work session we talked about the metal roof and the ice and snow coming off of that. There's supposed to be some kind of retention things.

MR. COPPOLA: What are they called?

MR. HINES: Snow guards.

MR. COPPOLA: The little spikes staggered on the eave of the roof.

MR. BROWNE: If I'm not mistaken, from what we discussed there are a few areas where the sidewalks are close.

MR. CONKLIN: That's a good point.

MR. COPPOLA: Actually, we added that to our construction drawings already.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Mike, do you want to give us conditions of approval?

MR. DONNELLY: It would be the standard ARB conditions.

CHAIRMAN EWASUTYN: I'll move for a motion to grant ARB approval for the Patty Cake Child Care facility.

MR. GALLI: So moved.

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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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

MR. COPPOLA: Thank you.

MR. BROWNE: Just one question. Was this expedited quick enough?

MR. CONKLIN: Thank you very much.

(Time noted: 8:55 p.m.)

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

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

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DATED: June 18, 2008

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

----- X  
In the Matter of

MOUNTAIN VIEW SUBDIVISION  
(2008-04)  
West side of Mountain View Road  
Section 14; Block 1; Lot 142  
AR Zone

----- X

NINE-LOT SUBDIVISION  
Date: June 5, 2008  
Time: 8:51 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

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

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

----- X

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

MOUNTAIN LAKE SUBDIVISION

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MS. HAINES: The last item of business is Mountain Lake Subdivision. It's a nine-lot subdivision located on the west side of Mountain View Road, it's in an AR Zone and it's being represented by Justin Dates.

MR. DATES: Mr. Chairman, Justin Dates from Maser Consulting. The last time we were here, February 21st, at the Planning Board meeting we developed full subdivision plans for the project site layout, grading and drainage, septic as well as construction details.

Some of the comments that we addressed from the Planning Board and the consultants from last time dealt with some of the lots. Lot 2 in particular we had originally facing towards Mountain View. We've actually shifted the frontage to face along our proposed private road and also have the access to the private road.

Lot 6, we utilized the location of the house a little better with the existing stonewalls so they can use them as an amenity.

Also we put a note on our plan that all the existing stonewalls will be preserved to the greatest extent possible. Driveway cuts, septic



MOUNTAIN LAKE SUBDIVISION

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areas and the house locations, of course it will be removed in those areas.

We had two proposed stormwater management basins on site, one in the rear of lot 8 and then one adjacent to lot 6 here.

We've also introduced some storm tech chambers on lots 1, 2, 6 and 7 to take care of the roof runoff from those houses.

We have submitted a plan to the highway department but we haven't received any comments regarding the access to Mountain View.

We are talking with the Army Corp in regards to the mitigation that will be required based on the disturbance.

CHAIRMAN EWASUTYN: Pat Hines, you looked at the drainage impacts.

MR. HINES: A couple comments. On the subdivision plan I did receive a common driveway access and maintenance agreement is going to be required for the lots to the rear.

Can you explain the existing structures on the right side as you're coming in? Is this also a lot line change? Are they going to become owners of the private roadway portion thereof.

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MR. DATES: They do currently have an access easement over this portion on our property. So we would be looking to include them in the private road maintenance agreement.

MR. HINES: It looked like you were bringing the property lines out to the center, which would be consistent with what we would require typically. I didn't know if this was going to have a lot line change at those two lots or what would happen.

MR. DATES: We were trying to keep in kind with the existing lot lines and a portion in front of their lots would be part of the maintenance.

MR. HINES: Based on the maintenance agreement?

MR. DATES: Yes.

MR. HINES: You may want to revise the lot lines. It looks like you bring them to the center.

MR. DATES: Okay.

MR. HINES: That's why I didn't know if it was a lot line change or not. I don't know we can require them to be part of the lot line

MOUNTAIN LAKE SUBDIVISION

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change. It's fine if it's not. Just show that clearly.

It will need Health Department approval for the septics. There's more than five lots under 5 acres.

In the private road access and maintenance agreement, I'm suggesting that the stormwater management facility maintenance could be included in that same agreement if it's a private roadway.

Just noting an Army Corp permit is required for wetlands filling.

Your detail for the private roadway needs to be revised to be consistent with the Town's private road detail. There needs to be a double surface oil and chip placed on top of the base course.

We reviewed the drainage report. I'm missing the pond B outlet discharge data. I need that updated.

I'm suggesting a note be added to the plans on the four lots that have storm tech chambers. Similar to the septic certification that the applicant's representative signed, that

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the storm tech chambers have also been installed consistent with the plans. It could be several years before one of those is, so just put a note on there similar to the septic certification that the engineer will certify those have also been constructed per the Building Department so we're sure those four lots have those -- do have them properly installed.

Detention pond B, the inlet and outlet are on the same side of the pond. It's kind of an unusual arrangement. It looks like one of them should be relocated to the opposite side of the pond to prevent short circuiting.

MR. DATES: Okay. You're talking about the two discharge points?

MR. HINES: It doesn't have any water coming into it or out of it. It looks like one of those should be relocated. Take a look at that.

MR. DATES: Okay.

MR. HINES: That's the extent of our comments.

I think this came a long way from when we saw it under a different engineer. It had the

MOUNTAIN LAKE SUBDIVISION

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roadways coming all the way through the wetlands and all the way through the property. I think this design works a lot better in consideration of the topography and wetlands and lot geometry.

CHAIRMAN EWASUTYN: Pat, the one other thing about the paving section.

MR. HINES: I gave him that one already.

MR. DATES: Pat, are we going to get a copy?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: As Justin mentioned, they revised the lot geometry on lots 2 and 6. On lot 6 they are to utilize the stonewalls more and lot 2 so that the house would be facing Mountain View Road and kind of bringing more into the subdivision -- I'm sorry, the new private road.

Lot 1 is also fully on Mountain View Road now and won't be privy to the private road maintenance agreement. That driveway location is going to have to be approved by the highway department along with the proposed private road.

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You mentioned the stonewalls on the site. It you could preserve those as much as possible.

We received a letter from the Thruway Authority regarding this project. They had a couple comments. The only one that really applies to this site since it's residential is the installation of a six-foot high chain-link fence right on the property line. Did you get that letter?

MR. DATES: Yeah. Pat actually faxed it over to us. Is that a standard request from the Thruway when you have residential --

MR. COCKS: Yeah. They request it for commercial. Pretty much any property that abuts the Thruway they want a six-foot high chain-link fence. That just needs to run along the property line from one corner to the other.

We sent this plan to the Orange County Planning Department. We haven't received comments back. The thirty-day timeframe is up.

Pat mentioned the submission to the Army Corp of Engineers for their approval.

Mike Donnelly will just have to approve

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the private road agreement.

CHAIRMAN EWASUTYN: Karen, your comments?

MS. ARENT: I had comments from February. Just to show street trees or a note saying that trees will be preserved. I can send you the note. If they are not preserved or there's not a tree every forty feet, that one will be planted -- a street tree will be planted. The site is wooded so if you can preserve some of the trees that's acceptable. There's a lot. I can send it to you.

MR. DATES: We're trying to preserve as much as possible.

MS. ARENT: In case they're not preserved or damaged during construction, street trees would be required.

MR. DATES: Okay.

MS. ARENT: The note will say that.

MR. DATES: That's fine.

MS. ARENT: The stormwater management plan needs to be shown as well as a fence. It would be a ranch style fence around the basin.

MR. DATES: Yeah. We proposed a chain-

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2 link black vinyl just -- the applicant is here,  
3 Mike Starace. He's a little concerned about  
4 maintenance and things with wood, a ranch style  
5 fence as opposed to chain link.

6 CHAIRMAN EWASUTYN: Mike, it's been  
7 kind of a standard, as we were saying earlier  
8 with Mr. Conklin, that we were looking for a  
9 split rail fence for the aesthetic aspect. It's  
10 just a consistency point.

11 MS. ARENT: So it blends a little  
12 better.

13 MR. STARACE: His stonewall is on 9W.  
14 This is in the woods. Aesthetics are kind of  
15 isolated for that lot there.

16 CHAIRMAN EWASUTYN: Do you remember the  
17 public hearing on Atlantic Builders?

18 MR. STARACE: Okay. Not a problem.

19 CHAIRMAN EWASUTYN: Thank you.

20 MR. STARACE: Absolutely not a problem.  
21 Thank you.

22 CHAIRMAN EWASUTYN: Again, everyone has  
23 their issue back and forth. If you start  
24 floating here and start floating here and you  
25 start floating there it becomes very



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inconsistent.  
MR. STARACE: Okay.  
CHAIRMAN EWASUTYN: I do remember  
people. Thank you.  
Comments from the Board Members?  
MR. GALLI: No additional comment.  
MR. BROWNE: No.  
MR. MENNERICH: No.  
MR. PROFACI: No, John.  
CHAIRMAN EWASUTYN: SEQRA  
determination?  
MR. HINES: The majority of the  
drainage report I'm okay with. The County Health  
Department is going to need to approve septic  
on this, so it needs preliminary approval. I'm okay  
with a negative declaration to move the project  
forward.  
CHAIRMAN EWASUTYN: Bryant Cocks?  
MR. COCKS: I have no further  
environmental issues.  
CHAIRMAN EWASUTYN: I'll move for a  
motion to declare a negative declaration for the  
Mountain View Subdivision and to set the 17th of  
July for a public hearing.

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MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have 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. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Thank you.

MR. DATES: Thank you.

CHAIRMAN EWASUTYN: Just help Pat Hines out. Again let's stick to one name on this because -- explain it to him, Pat.

MR. HINES: I explained to Andrew last week the title block issue. The Starace name is larger so when I think the plans are coming in to the office they're showing up as -- I probably have a file called Starace in my office rather

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than Mountain View.

MR. DATES: We usually try to make his name --

MR. HINES: Then leave the Mountain View out.

CHAIRMAN EWASUTYN: We have it set up as Mountain View.

(Time noted: 9:05 p.m.)

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

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

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DATED: June 18, 2008

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

----- X  
In the Matter of

ATTENDANCE FOR THE 7/3/08 PLANNING BOARD MEETING

----- X  
BOARD BUSINESS

Date: June 5, 2008  
Time: 9:05 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

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

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

BOARD BUSINESS

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MS. HAINES: For Board business tonight the only thing we have is that Ken will not be available for the July 3rd meeting so everybody else will have to be here.

CHAIRMAN EWASUTYN: Anything else?  
(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of the 5th of June.

MR. PROFACI: So moved.

MR. BROWNE: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 9:06 p.m.)

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

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

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DATED: June 18, 2008

