

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

- - - - - X

In the Matter of

O'BRIEN LANE II  
(2010-17)

O'Brien Lane  
Section 6; Block 1; Lot 9.26  
AR Zone

- - - - - X

CONCEPTUAL  
TWO-LOT SUBDIVISION

Date: August 19, 2010  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

- - - - - X

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

MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of August 19, 2010.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Present.

MR. FOGARTY: Here.

MR. WARD: Present.

MR. PROFACI: The Planning Board has various professional consultants, who advise the Board on issues, within their particular fields of expertise.

I'll ask them to please introduce themselves now.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

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

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

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

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

MR. PROFACI: Thank you.

I'll now turn the meeting over to John  
Ward.

MR. WARD: I'd like you to stand to say  
the Pledge of Allegiance.

(Pledge of Allegiance.)

MR. WARD: If you have a cell phone,  
please turn it off. Thank you.

MR. PROFACI: The first item on our  
agenda tonight is O'Brien Lane II. It's a  
conceptual two-lot subdivision. It's on O'Brien  
Lane, off of Pressler Road, Section 6; Block 1;  
Lot 9.26, in the AR Zone, represented by Charlie  
Brown.

MR. BROWN: Thank you, Joe.

This is an existing 17.2 acre parcel on

the end of O'Brien Lane, a private road that's presently under construction.

We were previously before the Planning Board July 17th. The proposal is to provide two building lots, plus the residual property that's roughly 15 acres.

The lots will be serviced by individual wells and septs.

Since the last Planning Board meeting we've added some notes regarding the residual lot and provided the rest of the grading for the driveways and floor elevations, the proposed floor elevations for the residences.

CHAIRMAN EWASUTYN: Thank you.

I'll turn to our Consultants at this time. Pat Hines, Drainage Consultant?

MR. HINES: Our first comment had to do with the three-year timeframe, which we discussed at work session. It's not an issue anymore.

There's a requirement for a maintenance agreement between lots 7 and 8 for the stormwater management facility. There may even be one in place. I just want to follow up with that.

MR. BROWN: There is a maintenance

1 agreement now that's part of the private road  
2 agreement. That will have to be modified for the  
3 additional lots. I dropped the paperwork,  
4 actually, off today to the attorney, so he'll be  
5 working on that.  
6

7 MR. HINES: Just a note. As we  
8 discussed, lot 6 contains a septic design for a  
9 six-bedroom residence. It is only a single-family  
10 residential structure right now and would need to  
11 come back to the Planning Board. If it's  
12 proposed to be a duplex, it would need special  
13 use and architectural review. But, it's fine as  
14 a single-family residence.

15 And just noting that the applicant has  
16 added the notes regarding no building permits on  
17 the balance parcel until approval of a well and  
18 septic on that lot.

19 That's all we have.

20 CHAIRMAN EWASUTYN: Jerry Canfield, do  
21 you have anything to add to this?

22 MR. CANFIELD: Just one question, I  
23 believe it's in Bryant's comments, with respect  
24 to a DEC letter regarding timber harvesting.

25 MR. BROWN: Yeah. I apologize for not

1 submitting that. I do have that. I'll Fax a  
2 copy of that over to Bryant today. He's got an  
3 ag exemption -- there were two documents, an ag  
4 exemption, and I also have a copy of the permit  
5 for the logging with me today. That will be with  
6 the next submission. I can bring a copy over to  
7 you and you can look at that now if you want.  
8 I'll formally submit it with the next submission.  
9

10 MR. CANFIELD: Okay.

11 MR. BROWN: Do you want to see it?

12 CHAIRMAN EWASUTYN: That's fine. You  
13 want to then just make sure we get it in the  
14 office.

15 MR. BROWN: Of course.

16 MR. CANFIELD: Thank you, Charlie.

17 MR. BROWN: Yup.

18 MR. CANFIELD: That's all I have.

19 CHAIRMAN EWASUTYN: Bryant Cocks,  
20 Planning Consultant?

21 MR. COCKS: That was my first comment.

22 My second comment was regarding the  
23 signing of the delineation map, which was  
24 provided at the last submission.

25 The 25-foot access easement on the

bottom there, that's not actually the one that they use to get through. Are they using the one on top with the shared driveway?

MR. BROWN: For the logging operation right now?

MR. COCKS: Yeah.

MR. BROWN: Well, right now, because of the DEC permit, you'll see that seasonal. They're allowed to do it certain times of the year and not others, because of the crossing of the wetlands. Right now the operation is not ongoing.

When you were doing it, were they coming down the right side.

MR. O'BRIEN: No. They were using the main road.

MR. BROWN: They were using the main road.

MR. COCKS: Just because there were stonewalls in the middle. I didn't know if they were going on someone else's property.

MR. BROWN: I can add a note to the plans if they need to adjust, relocate those stonewalls. They don't want to take them out.

They do have aesthetic value there. I'll add a note saying if they have to -- you know, if they're going to use that and the stonewalls are in the way, they have to relocate them. It's just that one place you're talking about?

MR. COCKS: Yes.

And, this was sent to the Orange County Planning Department. They gave it a Local determination.

Just, if you could, just provide the revised EAF that was requested last time.

That's all.

CHAIRMAN EWASUTYN: Karen, I don't believe you reviewed this one.

MS. ARENT: No, I didn't.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No additional comments.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: Nothing.

MR. FOGARTY: I have nothing at this time.

CHAIRMAN EWASUTYN: John?



MR. WARD: No comments.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to grant conceptual approval for the -- three-lot subdivision; right?

MR. WARD: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: The three-lot subdivision on O'Brien Lane. I have a motion by John Ward. I have a second by Tom Fogarty. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself, yes.  
So carried.

There will be two parts to the second motion. I'll move for a motion to declare a negative declaration for the three-lot subdivision for O'Brien Lane and to set a public hearing for the 16th of September.

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. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Charlie, will you make it a point of getting all the information needed for the public hearing to Bryant Cocks?

MR. BROWN: Yes. Thank you very much.

(Time noted: 7:07 p.m.)

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

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

DATED: September 15, 2010

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

- - - - - X

In the Matter of

MARKETPLACE AT NEWBURGH  
(2004-54)

Route 300 and Route 52  
IB and R-3 Zones

- - - - - X

CONCEPTUAL  
AMENDED SITE PLAN

Date: August 19, 2010  
Time: 7:07 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN BAINLARDI

- - - - - X

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

MR. PROFACI: The next item on tonight's agenda is the Marketplace at Newburgh. It's an amended site plan on Route -- located at Route 300 and Route 52. There are multiple section, block and lot numbers. It's in the IB Zone with a small portion in the R-3 Zone, represented by Wilder, Balter Partners.

CHAIRMAN EWASUTYN: For the record would you give your name?

MR. BAINLARDI: Good evening. My name is John Bainlardi. I'm the development manager for the project, the Marketplace at Newburgh.

We have here with us tonight Bob Wilder, the principal, the owner; Tim Miller from Tim Miller Associates, our Environmental Consultant; Mark Gratz from Divney, TUNG & Schwalb, our Civil Engineer; and Dr. Grealy from John Collins Engineers, our Traffic Consultant. We also have representatives here this evening from BJ's Wholesale and Shop Rite, if there are any questions for those particular tenants.

Thank you for the opportunity to review the maps applicable to our request for amended site plan approval for the Marketplace project.

The Marketplace project, as you're aware, is a 784,000 square foot shopping center, which was granted final site plan approval by resolution of this Board on June 17, 2008. Preliminary and final site plan approvals for the Marketplace project were granted after the completion of an extensive environmental review by this Board acting as lead agency, pursuant to the State Environmental Quality Review Act. That environmental review was conducted over a two-and-a-half year period, approximately commencing with the establishment of this Board as lead agency, followed in succession by the Board's Declaration of Environmental Significance, public scoping of the environmental review, preparation and acceptance of a Draft Environmental Impact Statement, public hearings on that Draft Environmental Impact Statement and preparation and acceptance of a Final EIS. At culmination of the environmental review was the adoption of the Findings Statement by this Planning Board in May of 2007. You may recall that this process was a very public process with input from many stakeholders, including neighbors and their hired

consultants, this Board's consultants, Town staff and other interested, involved agencies, including the DOT, Department of Environmental Conservation, the Army Corp of Engineers and the Orange County Department of Health.

The adopted Findings Statement for the project, the site plan, provides that it's applicable to both the project plans and all alternatives as laid out in the SEQRA process.

Significantly, in the context of this application, this Board specifically acknowledged in that Findings Statement that future site plan modifications would likely be necessary, and in confirmation of this expectation and to establish parameters regarding the purview of the completed environmental review, the Findings specifically state the following: The Planning Board acknowledges that retail users have varying needs as market conditions change and consumer buying habits change. In this regard, minor modifications, that may be requested for the site plan in the future, are not likely to require further SEQRA review within the limits of applicable and prevailing law, so long as these

modifications: One, do not result in any more building square footage or impervious surfaces on the site than the amount reviewed in the original proceedings, do not permit any use of the site other than those allowed by current zoning and reviewed during the original proceedings, do not decrease buffers from outside property lines or increase the disturbance envelop of the grading plan reviewed, do not reduce the number of access points below the three currently proposed, and do not reduce the size of the lifestyle center components of the project below 100,000 square feet.

In April of this year your Board granted a one-year extension of the project's site plan approval as permitted pursuant to the Town zoning law.

And, with respect to the application before you we have submitted for your consideration sixteen site plan sheets from the project's approved site plan drawing set. These sheets have been revised to reflect those modifications we deem necessary to accommodate the prototypical buildings and facilities of two



tenants, namely BJ's Wholesale Club, an approximately 85,000 square foot wholesale club with a gas fueling facility, and Shop Rite, an approximately 66,000 square foot supermarket.

If I could direct your attention now to the drawing which you've seen before. We submitted this to the Board. This is the site plan. This particular plan provides, graphically, a comparison of the approved site plan and the proposed amended site plan by superimposing one plan over the other. Those sections of the approved plans and which modifications are proposed, they're shown here in blue. Basically the infrastructure access points, drainage and so forth, substantially are unchanged from the approved project.

What is proposed is to reconfigure some buildings in the big box area to accommodate Shop Rite and BJ's Wholesale. And, as you can see here, we basically had, at one point, what was previously labeled building 2 on the approved site plan. That building is -- it was a separate detached building. We've eliminated that building and we've enlarged the building

adjoining it. That may end up with the same square footage.

The other changes that then grew out of these changes for these particular tenants was accommodating access off of the main road A with a slightly realigned entry point at entry E, adjustment of islands and parking stalls to -- sidewalks, and so on and so forth.

The landscaping was revised to be incorporated into those revised parking islands and landscaped areas. And, what we were able to accomplish there, was to provide screening and landscaping that was in accord with the prior approval. We ended up with landscaping, in terms of plants, which exceeded the SEQRA requirements and was either at, or exceeds the prior approval.

With respect to parking, we ended up with the same number of parking spaces.

Impervious surfaces, there are no additional impervious surfaces proposed.

We have proposed a lowering of the grade in this area by an average of about three feet, and the access drive has been slightly -- been slightly lowered to accommodate that change.

1  
2 And you have before you in your  
3 packages as well, we had some line-of-sight  
4 drawings, which we prepared from Route 84.  
5 There's actually one drawing. We've prepared a  
6 second drawing, from another location, to show a  
7 second line of sight. We have that drawing here  
8 this evening, if you would like to see that.

9 We also have a letter from our traffic  
10 consultant who took a look at the traffic to the  
11 project and basically determined that these  
12 changes will not result in any increase in the  
13 traffic, which was originally contemplated by the  
14 project.

15 So, we respectfully submit that based  
16 upon the parameters established by this Board,  
17 the proposed modifications do not require  
18 additional SEQRA review, as the proposed site  
19 plan revisions will not result in greater  
20 building square footage or impervious surfaces  
21 than previously reviewed.

22 The proposed uses, which continue to be  
23 retail on the site, are permitted by current  
24 zoning and are the same as reviewed during the  
25 SEQRA process.

The buffers have not been decreased.

Elements of disturbance, shown on the grading plan, have not been expanded.

The access points remain as approved.

The size of the lifestyle center component of the project has not been reduced below 100,000 square feet.

That is our presentation. We're available for questions. And, if you'd like us to present any other materials, we'd be happy to.

CHAIRMAN EWASUTYN: At this point I'd like to hear from Phil Grealy of John Collins Associates as far as the project, the additional use of a supermarket on the site, and, if there are any changes in the original traffic mitigation measures as a result of this.

MR. GREALY: Good evening. Philip Grealy, John Collins Engineers. We prepared all the original traffic reports for the project as part of the SEQRA review.

The original traffic reports were for up to 850,000 square feet of development on the site. The approved and the current plan is, I believe, around 775,000 square feet.

The mix of uses within a shopping center include various uses, retail uses, ranging from supermarkets to department stores.

In terms of looking at this site and the effect of a supermarket and a BJ's, we did look at individual trip generation. Individual trip generation is usually done as a stand-alone store, where it's not part of a shopping center but a stand-alone, whether it be a Stop & Shop or Shop Rite. The same for BJ's. However, at most locations you'll find these in shopping centers. BJ's, for example, most of their locations now are located in shopping centers with other uses. For example, in the Town of Yorktown you have a BJ's that's in a shopping center with a Staples, a bank and a lot of different retail uses. So, it's a typical component of a shopping center. The same thing with supermarkets. You'll find more and more now, as in the Town here, where you have your supermarkets -- Stop & Shop up on Route 300 is in a shopping center with a lot of other retail uses. Price Chopper, the same thing.

What we did was we did an analysis looking at individual uses in terms of trip

1 generation, both at the critical time periods,  
2 p.m. and Saturday peak hours, which were the  
3 critical items in the DEIS, and we compared those  
4 trip generation numbers, and then looking at the  
5 balance of the square footage of the shopping  
6 center. So, we accounted for the entire  
7 development. What we found, in total, with these  
8 changes, the site generation, trip generation  
9 would be pretty comparable to what was analyzed  
10 before. And I know it's been reviewed by your  
11 consultant, and we kind of did different methods,  
12 but we came up with similar answers. I think we  
13 were a little bit lower on the p.m. peak hour and  
14 on the Saturday. It turns out that our numbers  
15 were probably a little conservative. We're  
16 talking about a difference of about 15 vehicles  
17 in, 15 vehicles out in the p.m. So, for all  
18 intent and purposes, we came to the same  
19 conclusion.  
20

21 In terms of improvements; as you  
22 remember, we went through a detailed permit  
23 process with New York State DOT. We had multiple  
24 access points to the project, improvements on  
25 Route 300 including turn lanes, modified

1                   signalization, coordination of signals along  
2                   Route 300 interconnecting the signals. That's  
3                   still part of our plan, which were permit  
4                   conditions from New York State DOT.

5                   As you remember, at Powder Mill and  
6                   Route 52 we ended up with a roundabout design,  
7                   which was the preferred alternative. That's also  
8                   been designed in the plan approved by the DOT.  
9                   And then we had an access out to Route 52 near  
10                  Fifth Avenue. Those are all components of the  
11                  DOT approval for the overall site.

12                 Internally we also had -- at some point  
13                 in further phases of the development, we felt the  
14                 need that there may be a need for a traffic  
15                 signal at the intersections of road A and road B,  
16                 and that's still in the plan. Again, it's  
17                 something that we felt, probably like two-thirds  
18                 of the way through the development, that would be  
19                 needed. That's already been designed and  
20                 reviewed by your consultant. And I think the  
21                 idea there was to monitor it. It wouldn't go in  
22                 on day one but it would be monitored as  
23                 individual buildings came along, and then, once  
24                 it was needed, it would be installed. A lot of  
25

1 that need was tied into the lifestyle center,  
2 because of the way that was going to be accessed,  
3 to handle exiting traffic.  
4

5 I think there's been some slight  
6 changes in driveway locations, but those are site  
7 plan. It doesn't really affect the overall  
8 traffic condition.

9 I think this plan works well and can  
10 accommodate the uses that are proposed.

11 CHAIRMAN EWASUTYN: Tim Miller, from  
12 Tim Miller Associates, you worked on behalf of  
13 the applicant with the DEIS, the FEIS and  
14 Findings Statement. Now we're looking at the  
15 amended site plan. Can you bring us along as far  
16 as the tightness of the SEQRA documents as it  
17 relates to the amended plans before us?

18 MR. MILLER: Yes. At the conclusion of  
19 the SEQRA process, the Planning Board adopted a  
20 forty-page set of Findings that basically looked  
21 at all the topics that had been reviewed during  
22 the public review, vis-a-vis the Draft and Final  
23 Environmental Impact Statement. I've reviewed  
24 that forty-page Findings Statement. As John  
25 Bainlardi indicated, the Findings Statement did



1 anticipate the likelihood that there would be  
2 potential modifications to the site plan that had  
3 been originally submitted for the clear  
4 likelihood that as you negotiate with various  
5 tenants, they each have their own style of  
6 building, their own footprint, and so it's  
7 anticipated that there would be possible  
8 modifications to the site plan.  
9

10 As John indicated, and as I think he  
11 read to you very specifically from the Findings,  
12 so long as, I think, four of the thresholds that  
13 had been set forth in the Findings were not  
14 exceeded, the Findings indicated that the SEQRA  
15 review would not need to be revisited. Based on  
16 my review of the Findings, I don't see any topic  
17 that in fact would be invalidated by this  
18 relatively minor change in the site plan.

19 So it's our view, legally and from a  
20 SEQRA point of view, that the Planning Board can  
21 simply modify its Findings to reflect these  
22 relatively minor modifications and continue to  
23 move forward with its -- with the decision making  
24 on this site plan modification.

25 We also modified the landscape plan.

We got some comments from Karen on that. It's our view that the landscape plan complies entirely with the Findings. In fact, we've added some additional plantings.

We did a couple sight-line studies from I-84, again to demonstrate that with the topography, the existing tree cover and the landscaping that's proposed, that those aspects of the modifications would not be visible from I-84. One of those plans have been submitted to your Board.

We have another sight line that we looked at which also demonstrates that, without question, the topography and the existing and proposed trees would block the line of sight to these proposed new structures.

CHAIRMAN EWASUTYN: Thank you. And who is representing the applicant as far as drainage and -- I think Mr. Gratz.

Would you please bring us along as far as your plans in front of us?

MR. GRATZ: My name is Mark Gratz with the firm of Divney & Tung & Schwalb representing the Marketplace tonight. Our task was the site

civil engineers throughout the process over the past several years.

The plan that you see before you is essentially the exact same plan that was approved as part of the FEIS review process. There have been no significant or no major changes to any of the drainage systems that were proposed and approved by both the town engineer and the Town's engineering consultant.

The only modifications that were made, or that were required as a result of the latest site plan modification before you, was primarily just service connection type changes and the rerouting of several storm drain infrastructure components to basically fit the new configuration of the parking lot in front of the buildings. The two major drainage basins -- one basin in A which was located off of road B, there's been no change to that basin. And there's no change to basin CC, which still is picking up all the same drainage that it had done previously. There's no change in any of the watersheds going to those basins. It was purely a reconfiguration, again, of the infrastructure to take care of the new

1 design of the parking lot to fit the new tenants'  
2 needs. Similarly for other utilities, both  
3 sewer and water, the only changes that have been  
4 made or were in the recent set of plans that were  
5 submitted to the Planning Board and reviewed by  
6 the Town's consultants basically were just to  
7 adept the current site plan to the new tenants  
8 and the new building configurations for A, B-1  
9 and B-2.  
10

11 Short of that, it's essentially the  
12 same plan.

13 CHAIRMAN EWASUTYN: John, would you be  
14 kind enough to ask them to introduce themselves?  
15 You said you had a representative here from BJ's  
16 and Shop Rite.

17 MS. SASOON: Hi. Susan Sasoon, I'm the  
18 architect for Shop Rite.

19 Do you have some specific questions for  
20 me about the Shop Rite building?

21 CHAIRMAN EWASUTYN: Just what you're  
22 proposing to do and how you're part of the new  
23 location. Give us the history on that.

24 MS. SASOON: Okay. Well, what we're  
25 proposing to do is similar to what we've done on

other sites. We're going to have, I guess, the vestibule up here. We're going to have a couple of towers at the end with signs announcing our presence on the site.

Loading is in the back.

CHAIRMAN EWASUTYN: Thank you.

You have a representative from BJ's.

Your name, please?

MR. GOTH: Hi. I'm George Goth, BJ's Wholesale Club. I am the manager of site development for the project.

This building, B-2, is obviously BJ's portion. This is representing our main breezeway entry, which is the only entry for our customers, into the main portion of the building. There's a secondary entrance over here which is just into the tire center portion. It's just the appendage here for tire sales and service.

Loading is right here.

You can see a couple of compactors shown.

There's also three truck bays as well.

And then we have a BJ's Wholesale gas station. It's a six-pump or twelve-dispenser

unit.

If there's anything else, I'll be glad to answer.

CHAIRMAN EWASUTYN: At this time I would like to turn the meeting over to the Planning Board Consultants for their comments or questions. I'll start with Jerry Canfield who represents the Town of Newburgh.

Jerry?

MR. CANFIELD: Yes, Mr. Chairman. My comments and concerns will be addressed through our consultants.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Our first comment just identifies that the project is before the Board for amended site plan, now that actual tenants for a couple of the buildings have been secured.

It's our understanding that each of the three access roads are to be constructed during the initial construction sequence, and that both stormwater management facilities, as pointed out by Mr. Gratz, will be constructed during the initial construction sequence also. We took a

1  
2 look at that. There's actually a grade break  
3 about halfway through the proposed building under  
4 construction, so that both large detention pond  
5 facilities will be required during the initial  
6 construction phase.

7           We're looking for submission of a plan  
8 that shows all work activities required to be  
9 performed prior to a certificate of occupancy for  
10 the structures, what the site is going to look  
11 like in the initial construction phase, such  
12 things as entrance drives to the lifestyle center  
13 that are shown on the plan but most likely not  
14 constructed simultaneously to this plan, how  
15 those are going to be treated. I don't think the  
16 Board wants to see orange traffic cones there for  
17 an extended period of time. Which infrastructure  
18 -- a lot of the water and sewer utilities need to  
19 be constructed. Some of the drainage systems  
20 won't be installed during the initial phases  
21 because of the construction sequence that's  
22 currently proposed. So for our use, the Planning  
23 Board's use, and most importantly I think the  
24 building department's use, a plan showing what's  
25 going to be put in during this initial

1 construction sequence so that they know at the  
2 time of the certificate of occupancy that the  
3 work that was to be done is actually done.  
4

5 We're looking for notes on the plans  
6 identifying acceptable stabilized slopes for  
7 those areas that are not brought to final grade  
8 during this initial construction sequence. We're  
9 looking for the applicant's engineer to provide  
10 those notes, and maybe a detail of that.

11 Transitional slopes in areas that  
12 aren't to be constructed. Obviously there's a lot  
13 of grading on the site that won't be required  
14 during the initial construction phase. We did  
15 note that all the work is within the original  
16 limits of disturbance. There's no additional  
17 areas impacted, based on the plan we reviewed,  
18 that were not reviewed under the previously  
19 approved final site plan.

20 We did take a look at the slight  
21 modification of the vertical roadway alignment.  
22 That has been addressed by the applicant's  
23 engineer and appropriate modification to the  
24 various site utilities have been done. The rims  
25 and inverts and such have been modified in those



1 areas for the various utilities that were in  
2 those areas. They're pretty much on the same  
3 line. There was just a change in the grades of  
4 those utilities to accommodate the change in  
5 grade of the site plan.  
6

7 And then we're just noting that the  
8 Board should -- all original conditions of  
9 approval and mitigation measures in the Findings  
10 should now apply to this amended site plan also.

11 That's all we have.

12 CHAIRMAN EWASUTYN: John, in Pat's  
13 presentation he talked about the pre-approved  
14 roadways, entryways to the site. When will they  
15 be started and are they all part and parcel of  
16 the initial activity associated with the site?

17 MR. BAINLARDI: They're all part and  
18 parcel. We're not proposing to make any  
19 modifications. There are off-site improvements,  
20 as well, as part of the DOT approvals as  
21 represented and committed to in the original  
22 approval and are contemplated to be constructed  
23 prior to the first certificate of occupancy.

24 CHAIRMAN EWASUTYN: Thank you.

25 Bryant Cocks, Planning Consultant?

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MR. COCKS: My first comment had to do with the cart areas in the parking lot. Were those taken out of the parking definitions on the site?

MR. GRATZ: Yes.

MR. COCKS: There was one that was right next to a light pole. Did you realize that was there?

MR. GRATZ: It can be -- yes, we realize that. It can be relocated. It would just be a direct swap, obviously.

MR. COCKS: I just personally wouldn't park my car between a shopping cart and poles.

The turnaround area behind the Shop Rite, it has the striping on there. Is there going to have to be any signage there for other cars in case there's trucks making turning movements there?

MR. GRATZ: Again, it was not our intent to have any signage proposed. It's principally to allow free access and free movement of the tractor trailers. We wouldn't want to introduce an obstruction.

MR. COCKS: Does Shop Rite usually have

1 the trucks come in, say before the rest of the  
2 mall would open? Are they usually morning or  
3 night deliveries, or is that an all-day thing?  
4

5 MR. GOTH: We believe it's throughout  
6 the day. With respect to BJ's, BJ's typically  
7 receives a lot of trucks at night, although we do  
8 have a lot of step vans, Fed Ex and like that,  
9 during the day.

10 MR. COCKS: Okay. I'm going to let  
11 Karen talk about the line-of-sight drawings but I  
12 also had a comment. I think we're just going to  
13 have to take a look at a couple of the notes on  
14 the cover of the site plan sheet, the  
15 construction completion requirements for C of Os  
16 for individual structures. There's just a bunch  
17 of notes on the plans. There's fifteen or  
18 eighteen of them. A couple of them seem like  
19 they have to be revised with the site plan. I  
20 don't know if you want to take a stab at that and  
21 we'll see what needs to be changed.

22 Also, there's a note on there under the  
23 general notes about the landscape bond. I didn't  
24 know if you guys were planning on still doing the  
25 full bond upfront or if you're going to do that

in portions.

MR. BAINLARDI: I think we posted a bond for all of the work initially. When the new law came into effect that allows us to defer, we did. I had no plans at this time to break it up. In the future if we decide to, we'll come back to you on that.

MR. COCKS: Other than that, it was just submitting architectural drawings for ARB approval.

I was also wondering about the signage on site. I know Karen had the same comment about the pylon sign. Is that when the three buildings -- or the three first open the whole pylon sign is going to go in and be completely empty or --

MR. BAINLARDI: The pylon sign would be constructed. There would be a minimum of two panels. It's our expectation that by the time this construction begins, we won't have all the tenants in place and we'll come back to you multiple times to accommodate those various tenants. We would construct the pylon in the initial stages of the construction.

MR. COCKS: Okay. That was all I had

on the site plan comments.

CHAIRMAN EWASUTYN: Karen Arent,  
Landscape Architect?

MS. ARENT: I asked the project sponsor to demonstrate the new location for the gas station, the visibility and light impacts from Route 84 from the previously shown gas station, and to include another line-of-sight profile with their submission and to take it from more of a worst-case scenario as you're traveling west on Route 84, and to demonstrate that the visual lighting impacts of the gas station are mitigated to the greatest extent practical. And, if additional landscaping is needed, to show additional landscaping.

I had a question as to whether or not the proposed lighting of the gas station canopy was included in the submitted foot candle analysis? That question is also dependent upon what the new line-of-sight profile reveals.

And for you to demonstrate that the signs and architecture of the building comply with the approved mitigation measures. I'm sure that will be done during architectural approval.

The same question as Bryant, what will the design look like at the entrance to the site?

I think they need additional notes on the construction completion requirements list, especially with regard to the soil stockpiles, for them to have slopes no greater than 3 on 1 and to create as naturalistic of a land form as possible, to not stockpile materials that will not be used in future phases, to try to locate these stockpiles in areas that are less visible. So if you can put all those notes on the construction completion requirements, that would be great.

To also include garbage removal at the buffer area along Route -- along the Thruway access drive, and Route 300, and other parts of the site, especially if there is fencing. The garbage always gets caught in the fencing and it always looks very unsightly. If you can put those notes on the drawings.

To include, on landscape note 7, the complete landscaping and stormwater management buffer areas as part of the first section of landscaping.

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That's it.

CHAIRMAN EWASUTYN: Realizing our consultants haven't had the time to look at it, you did make reference to having revised line-of-sight drawings.

MR. MILLER: A new one.

CHAIRMAN EWASUTYN: A new one. Do you have a copy that you could begin discussing with us while we're all together?

MR. MILLER: Sure. I just want to show where the line of sights were looked at. We did what's called cross section AA, and that's located in this approximate area. That was the first one we did and submitted. And then the second one Karen was interested in is referred to as BB, and it's a little bit of a different angle from 84. So this would be where the viewer would be at Route 84. What these dashed lines show are the lines of sight, two of them. One shows where the line of sight would be blocked by the existing vegetation along the interstate right-of-way, and the second one shows where the line of sight would be blocked actually by the earth and the topography there. In both cases

1                   you can see it would not be possible to see this  
2                   gas station canopy from the interstate. That's  
3                   basically the exercise. So we'll provide that to  
4                   Karen.  
5

6                   CHAIRMAN EWASUTYN: Ken Wersted,  
7                   Traffic Consultant? You may have to speak up  
8                   because of the -- or stand.

9                   MR. WERSTED: To expand on Bryant's  
10                  comment about the striping at the rear of  
11                  building A, one option would be to stripe those  
12                  parking areas with actual pavement striping like  
13                  you do in front of the store with no parking,  
14                  fire lane, that way you're not introducing any  
15                  upright obstructions that would otherwise impede  
16                  a truck turning around. So that's an option to  
17                  consider.

18                  Our other comments are relative to the  
19                  cueing entryways. There's a couple of site plans  
20                  that could use some labels for entry, the C-1  
21                  entryway, D. There is no striping shown right  
22                  now at entry C-1, or traffic control there. You  
23                  should address that. And then the entry E, which  
24                  is at the corner of BJ's, we had looked at sight  
25                  distance from that location because it does move



-- from the original plan to the current plan, it does move maybe 150 to 200 feet further to the east, closer to the curve of road A. With that, we drew a profile along the road and found that the grades themselves wouldn't infringe on that sight distance but the proposed trees that would line the road might block some of the view. So we asked that the applicant work with Karen to either pick a different location or, you know, work through that issue to be able to maintain a clear sight line if a vehicle pulls out.

Relative to the differences in trip generation from the original analysis to the proposed, we also looked at the analysis and found that with the project as a shopping center and the smaller square footage from what was approved originally, that there would be about a three to seven percent decrease in the overall traffic volumes as compared to the 850,000 square foot shopping center that was analyzed a few years ago, taking into consideration that the supermarket may generate traffic at a higher rate than the shopping center. We looked at John Collins analysis as well as we had done our own

1 and found that it was very comparable to what the  
2 original analysis was. The added trip generation  
3 from the supermarket is basically offset by the  
4 smaller footprint of all the buildings. So the  
5 775,000 square feet of shopping center, including  
6 the BJ's and a supermarket, Shop Rite, would  
7 generate basically about the same amount as the  
8 original 850,000 square foot. That's really  
9 looking at those two uses as pretty independent,  
10 self-contained uses. I still agree as part of an  
11 overall larger development they tend to not  
12 become the single primary, you know, anchor, if  
13 you will, of the center because you have so many  
14 other uses in there as well. If these buildings  
15 were themselves, you know, the anchors with a  
16 much smaller component of retail, like a pizza  
17 shop and a laundromat and a couple other like  
18 smaller things, then really the draw to the  
19 center would be those uses. In this environment,  
20 in this setting, it's not the primary draw. It  
21 will be supplementing all the other uses.

22 So we found overall that the analysis  
23 of the whole shopping center as a whole was a  
24 consistent methodology to what we had used  
25

1 before, and that overall the traffic would be  
2 about three to seven percent less than originally  
3 analyzed. Therefore the conclusions,  
4 recommendations and mitigation all proposed as  
5 part of the original plan would still be  
6 consistent with the current plan. The  
7 improvements to Route 300, to Meadow Avenue and  
8 to Route 52 would be applicable.

10 And, in addition to those physical  
11 improvements out there, a couple other  
12 recommendations as part of the mitigation that  
13 was included would be monitoring the traffic  
14 volumes as you went through the different stages  
15 of development in here, as well as the production  
16 of a holiday/seasonal traffic management plan to  
17 accommodate basically the operations of the  
18 center during that holiday season, shopping  
19 season. Those were the two other aspects of the  
20 plan that also are still required as part of the  
21 project.

22 CHAIRMAN EWASUTYN: Thank you. At this  
23 point I'll turn to the Planning Board Members for  
24 any questions or comments.

25 Frank Galli?

1  
2 MR. GALLI: Just, John, the Chairman  
3 asked you about the road A that goes down to  
4 Route 52. You said that was going to be  
5 constructed before the first CO. That's going to  
6 have a traffic light?

7 MR. BAINLARDI: Right. I believe that  
8 our approval specifically required that all of  
9 the entrance points and all of the off-site  
10 improvements, that that was a condition of the  
11 first certificate of occupancy. We could  
12 commence building but we couldn't get a C of O  
13 until those improvements were done.

14 MR. GALLI: I thought it was by square  
15 footage, but that's all right.

16 MR. DONNELLY: The SEQRA analysis left  
17 room for that possibility, but in the resolution  
18 of approval, based upon the way the plan  
19 developed after SEQRA, required completion of  
20 that.

21 MR. GALLI: That's the only question I  
22 had.

23 CHAIRMAN EWASUTYN: Ken Mennerich?

24 MR. MENNERICH: John, it was mentioned  
25 that the area to be developed first, the lower

1  
2 approximately three feet, I'm interested in what  
3 the reason was, and will the rest of the site be  
4 lowered three feet?

5 MR. BAINLARDI: The reason was  
6 basically value engineering. We took a hard  
7 look, we determined that in that section we could  
8 lower the site, we could still make all of the  
9 drainage and other utilities work. This portion  
10 of the site is approximately three to four feet  
11 above this section, so we're not proposing any  
12 change there. The road is able to accommodate  
13 the change, so it just makes sense for us to make  
14 that change. It results in significant savings  
15 of earth movement.

16 MR. MENNERICH: The building at the top  
17 of the sheet, the area in front of those, do you  
18 think that's going to stay the same?

19 MR. BAINLARDI: We're not proposing any  
20 change there, and so under the proposal it  
21 wouldn't change.

22 MR. MENNERICH: Thank you.

23 MR. WILDER: I'd like to -- Bob  
24 Wilder, Wilder, Balter. I'd just like to make --  
25 just so it's clear, when we said we lowered this

1 three feet, this is all in fill. So it's less  
2 fill, it's not excavation. I just want to make  
3 that point clear. So it's actually less --  
4 effectively less site disturbance, less blasting  
5 in areas to create the fill we need. I can't  
6 remember how many yards but it's significantly  
7 less material.

8  
9 CHAIRMAN EWASUTYN: Thanks for the  
10 clarification. Words are important and sometimes  
11 they're misleading. Thank you.

12 Joe Profaci?

13 MR. PROFACI: Nothing.

14 CHAIRMAN EWASUTYN: Tom Fogarty?

15 MR. FOGARTY: Just a quick one. I know  
16 some of the economic times have already caused  
17 this project to change. I know it would be  
18 helpful to me, I would love to see a document  
19 showing how this whole project -- how you  
20 anticipate the staging of this project from the  
21 time you put the shovel in the ground until the  
22 time that the project is completed. I know  
23 that's going to change as time goes on. I know  
24 that would be helpful to me.

25 And one other thing. I just -- when do

you anticipate the beginning of construction?

MR. WILDER: We're hoping early this fall to be able to put a shovel in the ground.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: My comments were answered.  
Thank you.

CHAIRMAN EWASUTYN: At this point I'll turn to Mike Donnelly, Planning Board Attorney.

MR. DONNELLY: As I outlined for you during the work session, what you have before you is what your SEQRA findings contemplated, and that is the first of a likely series of amended site plans as tenants are firmed up and their needs are addressed. It is, nevertheless, an amended site plan. Your code has specific, slightly relaxed, procedures for reviewing an amended site plan, but it still does require site plan approval.

It should require a referral to the Orange County Planning Department because of the location. And, of course, in addition to the site plan review, you must confront how to handle this project under SEQRA. As I said to you

1 during the work session, one of the tenants  
2 tenants of SEQRA is that a given project have  
3 environmental review a single time, and if it has  
4 multiple aspects or phases, it's still supposed  
5 to have SEQRA review a single time. The  
6 regulations aren't, however, foolish. They do  
7 contemplate the possibility that if amended  
8 applications come in, that adjustments might need  
9 to be made. But the approach on an amended  
10 application which comes before you is different  
11 than the approach to an original application. By  
12 that I mean you don't declare yourself to be the  
13 lead agency, you already are. You don't issue a  
14 declaration of significance, one was already  
15 issued. Instead, you evaluate the project based  
16 upon the content of the EIS, and you measure it  
17 as to whether it satisfies your findings. If the  
18 findings need to address the changes, you can  
19 amend your findings. If in fact you find that  
20 there are new issues that were not addressed in  
21 the EIS, then you need to look at those issues  
22 and determine whether or not they are significant  
23 adverse issues that require a supplemental EIS.  
24 We did, as Mr. Bainlardi pointed out earlier, in  
25



1  
2 your findings, knowing that there were to be  
3 amended site plans, dictate a series of  
4 thresholds that would have to be exceeded before  
5 additional supplemental environmental impact  
6 statements would be required.

7           So I think the task under SEQRA is to  
8 evaluate this project in light of the EIS and the  
9 findings.

10           I think most of what you heard from  
11 your consultants, with the clarification of a  
12 follow-up report from Karen, although we've  
13 already seen the site diagram, if I'm hearing the  
14 consultants correctly, is that no new significant  
15 adverse environmental impacts remain. If that is  
16 ultimately your conclusion, you would issue what  
17 I've called, and you have used it in the past, is  
18 a SEQRA consistency determination. That is a  
19 finding that all of the proposals in the amended  
20 site plan are covered under the existing SEQRA  
21 review and that there is no need to issue any  
22 amended findings. If you need to amend your  
23 findings, and I remind you you've done that twice  
24 already as the project moved forward, you could  
25 amend your findings. Only if you found that there

1 was a significant adverse environmental impact  
2 would you be required to prepare a supplemental  
3 environmental impact statement.  
4

5 So I think the task at hand is for you  
6 to refer this to the Orange County Planning  
7 Department for a report. I think you should ask  
8 for further clarification from your consultants.

9 One of the things we discussed at work  
10 session, and although -- I think what Mr.  
11 Bainlardi said is what is contemplated here is  
12 still a single-phased project. He said that he  
13 anticipates, or certainly hopes, that once this  
14 construction is begun and before it's completed,  
15 that there's going to be another amended site  
16 plan as other tenants are found. However, we  
17 still need to be aware of the issue, and it's a  
18 very important one to the building department,  
19 and that is we need to be firm and clear, as  
20 between the applicant and the Town, as to what  
21 level of the improvements need to be in place  
22 before a certificate of occupancy has been  
23 issued. The applicant has attempted to address  
24 that with a series of map notes. There was some  
25 discussion at work session as to whether it might

1  
2 be better to have a drawing separate from the  
3 overall site plan that includes those map notes  
4 as detail sheets or cuts, whatever is required to  
5 make that work. I think you need to make sure  
6 the code compliance department is comfortable  
7 with that. And, if necessary, that can be an  
8 amended finding. I don't know that it relates to  
9 that directly. I'll look at that Finding  
10 Statement and see. Certainly we can tie it into  
11 any resolution condition at the time you grant  
12 any amended site plan approval.

13 So I think we need to follow up on some  
14 of these adjustments, we need to refer this to  
15 the Orange County Planning Department for the  
16 report, and you need to decide whether or not you  
17 wish to hold a public hearing, because that is  
18 optional.

19 CHAIRMAN EWASUTYN: Having heard from  
20 our attorney giving us advice as far as the  
21 original Findings Statement, the SEQRA and  
22 environmental issues, the fact that right now,  
23 under 239-M of the Municipal Law, we have to  
24 refer it to the Orange County Planning  
25 Department, I'll move for a motion for that.

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MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes.

As you know, it's not mandatory, it's up to the Planning Board on site plans, whether or not they do want to have a public hearing or waive the public hearing.

I'll poll the Board Members at this time starting with Frank Galli.

MR. GALLI: I think we've had public hearings on it before and I don't think this is enough of a change to warrant another public hearing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think we should waive

it.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No public hearing.

MR. FOGARTY: I would like to have a public hearing.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I think there should be a public hearing.

CHAIRMAN EWASUTYN: And I'm in favor of waiving the public hearing. So at this point the majority rules to waive the public hearing.

I ask that you provide plans to Bryant Cocks so that he can circulate to the Orange County Planning Department. You should submit to us and our consultants any revised plans you talked about with your site drawings. You could speak to me tomorrow as far as scheduling when they can be brought in to the Planning Board office. As you know, I schedule all the information that comes in to the office so it can be properly managed. At the same time we'll establish a day for Karen to review that.

Anything else?

It's not open for public comment.

UNIDENTIFIED SPEAKER: You will not  
entertain any public comment? Okay.

(Time noted: 7:56 p.m.)

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

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

\_\_\_\_\_  
DATED: September 16, 2010

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

- - - - - X  
In the Matter of

ORANGE COUNTY CHOPPERS  
(2005-58)

Crossroads Court & Orr Avenue  
IB Zone

- - - - - X

AMENDED SITE PLAN

Date: August 19, 2010  
Time: 7:58 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: RICHARD GRACE

- - - - - X

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

1  
2 MR. PROFACI: The next item on  
3 tonight's agenda is Orange County Choppers. It's  
4 an amended site plan located at Crossroads Court  
5 and Orr Avenue off Route 17K, Section 95; Block  
6 1; Lot 45.32, located in the IB Zone, and  
7 represented by M.A. Day Engineering.

8 MR. GRACE: Good evening, Chairman  
9 Ewasutyn, Planning Board Members and Planning  
10 Board Consultants. I'm Richard Grace.

11 This is our -- I guess our third  
12 meeting. There was a few amendments that we  
13 needed to accomplish on the site plan from our  
14 previous meeting.

15 Some of the comments -- there is a  
16 signage calculation that we did on the bottom  
17 portion of the plan here. I don't know if some  
18 of you missed it or didn't see it or --

19 MR. COCKS: (Inaudible.)

20 MR. GRACE: I didn't hear you.

21 MR. COCKS: We got the old cover sheet  
22 for some reason, in your submission to me and  
23 Karen. All the Planning Board Members got the  
24 new ones and we got the old ones. It's all right.  
25 We saw it.



1  
2 MR. GRACE: Thank you. Let me just go  
3 through. The isofootcandle diagram was added to  
4 the lighting plan. One of the answers to one of  
5 the questions was any wall-mounted exterior  
6 lights. There will be no wall-mounted exterior  
7 lights on the building. We will provide  
8 emergency exit lighting, obviously.

9 The other -- one of the other questions  
10 was about the deep test pits and the percolation  
11 test, I think that Pat Hines had for us. I think  
12 we covered all that. We made a note it was added  
13 to the plan stating the percolation tests were  
14 conducted at a depth of twenty-four feet. I  
15 think you guys have already seen all of this.

16 Calculations for the grease trap were  
17 included in the report.

18 The engineer's report also included the  
19 modifications to the pump station as well.

20 We have located the handicap parking  
21 spaces as per the requirements that I think Ken  
22 Wersted had for us.

23 The gate to the entrance on Orr Avenue  
24 has been removed.

25 At the last meeting we also discussed

1 the removal of the no right-hand turn sign, which  
2 we also did take off the plan as well, so that  
3 people exiting the Orr Avenue lot could make a  
4 right and go out of Orr Avenue to get onto 17K.

5 We also reduced the size of the  
6 additional parking signs as per request by Ken.

7 I think that was basically it.

8 There was one other outstanding item  
9 which was the agreement for the Orr Avenue lot.  
10 Due to some underlying circumstances, the  
11 agreement is in principle, we just haven't  
12 executed it yet. We'll be getting that shortly  
13 I think. Henry has addressed that issue.

14 CHAIRMAN EWASUTYN: Thank you, Richard.

15 At this point I will start with Ken  
16 Wersted, our Traffic Consultant. Ken, you may  
17 have to speak up because of the air conditioning.

18 MR. WERSTED: I reviewed the previous  
19 comments and revised plans. All of my previous  
20 comments have been addressed. I don't think I  
21 have anything more at this time.

22 CHAIRMAN EWASUTYN: Karen Arent,  
23 Landscape Architect?

24 MS. ARENT: We discussed at work  
25

1 session the proposed lighting, and there's some  
2 concern that the minimum foot candle may not be  
3 enough for safety. Is there any documentation  
4 that you can provide from the lighting company to  
5 assure minimum foot candles?  
6

7 MR. GRACE: Sure. We can get that for  
8 you. Absolutely.

9 CHAIRMAN EWASUTYN: Bryant Cocks,  
10 Planning Consultant?

11 MR. COCKS: All of our previous  
12 comments have been addressed on the plans.

13 Your signage chart and the lighting  
14 plan have been added.

15 My only other comment was regarding  
16 outside agency approvals. We did get a letter  
17 from the Orange County Health Department giving  
18 you conceptual approval. We're just waiting for  
19 the City of Newburgh sewer flow acceptance.

20 CHAIRMAN EWASUTYN: Pat Hines, Drainage  
21 Consultant?

22 MR. HINES: Our previous comments have  
23 been addressed. The major comment we had  
24 outstanding were the modifications to the sewer  
25 pump station. We received a design report

identifying those modifications.

As Bryant just mentioned, the City of Newburgh flow acceptance letter for the additional 6,250 gallons per day of sewage increase to the restaurant is an outstanding item.

I just wanted to clarify Mr. Gray stated that -- Grace?

MR. GRACE: Grace. It's okay.

MR. HINES: -- stated that the perc tests were at twenty-four feet. They're actually twenty-four inches below the invert of the stormwater management system.

Just on Karen's comment, one of the Board Members had a concern about the longevity of the battery life in the green-type lighting fixtures you had. When you get the information for Karen, she's looking for the battery life.

MR. GRACE: They actually have individual battery packs on them. We'll get the -- we'll get it directly from the manufacturer for you.

CHAIRMAN EWASUTYN: At this time I'd like to turn to Joe Profaci who has some

questions and comments.

Joe.

MR. PROFACI: I'm a little bit concerned about the use of the solar and the wind-generated power for that lighting. As Karen asked for, she asked for some documentation with respect to the amount of lighting they give off. I don't know how long this type of lighting has been in use. It's an area that's going to be required to be lit without a doubt.

I have a suggestion. You can still stay and be green and still use the LED fixtures, but you could hardwire them. It still saves a lot of power, those bulbs last a long time, but that scares me a little bit.

MR. GRACE: So you're suggesting to hardwire them as well as --

MR. PROFACI: As well as, or eliminate the windmills and the solar panels.

MR. DONNELLY: I think the first step, and my suggestion had been, let's see the documentation. If the Board still isn't satisfied, then we'll cross this bridge. One way might be to include a condition that requires

1 that the foot candle, or some percentage of it,  
2 75, 80 percent, be maintained over the years  
3 you're in operation, and that if it dips below  
4 that level, that would be a violation of the site  
5 plan and subject you to an enforcement action,  
6 which might mean at that point you have to put in  
7 more conventional fixtures. I think we're getting  
8 ahead of ourselves. That will happen if the  
9 Board is not satisfied with the manufacturer's  
10 literature and some proof that these have been  
11 time tested.  
12

13 CHAIRMAN EWASUTYN: Keeping in the  
14 spirit of what Mike Donnelly just got done  
15 saying, and in satisfaction of Joe Profaci's  
16 concern, and due to the fact that we can't grant  
17 an approval this evening since we don't have the  
18 City flow acceptance letter, I'd like to ask the  
19 Board to set this for the meeting of September  
20 2nd, which is our next meeting. Between this  
21 evening and the upcoming days you could provide  
22 information to our office which I'll distribute  
23 to the Planning Board Members. You can discuss  
24 again the timing of delivering that. You can also  
25 discuss cc'ing the consultants with the same

1 information. We'll keep our fingers crossed that  
2 we'll have the City flow acceptance letter on  
3 September 2nd so we can address any comments and  
4 the need for an approval process subject to  
5 conditions that we'll be able to acknowledge on  
6 the 2nd, if that's all right with you. We're at  
7 a point where we can't act on it procedurally.

8 Correct, Mike?

9 MR. DONNELLY: That's correct. Under  
10 the agreement we have with the City, we're not  
11 allowed to grant approvals unless we have the  
12 City flow acceptance letter in hand.

13 CHAIRMAN EWASUTYN: Karen, the  
14 landscape bond estimate, you approved that dollar  
15 amount?

16 MS. ARENT: Yes. I just have to send  
17 the letter to the Town Board.

18 CHAIRMAN EWASUTYN: And that will be  
19 forwarded on by when?

20 MS. ARENT: I can do it by next week.

21 CHAIRMAN EWASUTYN: Okay. I'll turn to  
22 the Board Members at this point. I don't want to  
23 stop the meeting. We'll start with John Ward  
24 down at that end.  
25

John, your comments?

MR. WARD: Basically the lighting is a safety issue, and we're concerned late at night. That's the bottom line. Thank you.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: When you submit the information regarding the lighting, if you could also submit any companies, maybe locally, that have this type of lighting.

MR. GRACE: Okay.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing else.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Nothing else.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Nothing else.

CHAIRMAN EWASUTYN: Okay. Then I'll move for a motion from the Board to set this for the September 2nd Planning Board meeting.

MR. FOGARTY: So moved.

MR. GALLI: Second.

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



Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. Thank you.

Good luck with the City.

MR. GRACE: Thank you, Chairman  
Ewasutyn.

CHAIRMAN EWASUTYN: Thank you.

Pat, what's been the average timeframe  
on the turnaround as far as the City flow  
acceptance letter?

MR. HINES: I don't know that we've had  
any recently. I really can't answer that. I  
can't remember when we last got one.

CHAIRMAN EWASUTYN: Would you further  
this with Jim Osborne?

MR. HINES: I can. I know he sent the  
letter out. I got a copy of that. I'll follow  
up with Jim.

(Time noted: 8:07 p.m.)

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

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

\_\_\_\_\_  
DATED: September 16, 2010

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

- - - - - X  
In the Matter of

ROUTE 9W GAS and CONVENIENCE STORE  
(2009-14)

Route 9W and Carter Avenue  
Section 27; Block 2; Lot 25  
B Zone

- - - - - X

SITE PLAN

Date: August 19, 2010  
Time: 8:07 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW  
DOMINIC CORDISCO

- - - - - X

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

MR. PROFACI: The last item on tonight's agenda is Route 9W gas and convenience store. It's a site plan located at Route 9W and Carter Avenue, Section 27; Block 2; Lot 25, located in the B Zone and represented by Greg Shaw.

MR. CORDISCO: Good evening, everyone. I'm Dominic Cordisco of the law firm of Drake, Loeb. It's a pleasure to be back before you again. We were before you actually in November of 2009 for this application. This is a proposed gasoline and convenience store on 9W across from Carter Avenue, directly across, actually, from the Stewart's Shop on 9W.

I am here tonight with Greg Shaw, with Dr. Grealy, with Jerry Bergman and Jeff Rosenberg of Route 9W Carter, LLC, the project sponsor of the project.

As I was saying, we were before you in November. The Board granted concept approval at that time, and also referred us to the Zoning Board. We're in the B Zone and we actually meet all the requirements of the B Zone except for the fact that we were within 1,000 feet of another

gasoline service station, which of course would be the Stewart's across the street.

We went to the Zoning Board. We were before them in December and then again in March. When we were before them in December at the public hearing, there was only one person from the public that actually spoke in regards to this project, and that was the competition -- excuse me, that was the owner of the Ma & Pa deli which was Anita Dara, and spoke in opposition to the project. But in any event, the Board -- the Zoning Board was interested in traffic at that point. We always knew that we were going to have to address DOT and traffic issues along 9W, but we anticipated addressing them back before this Board, actually, because we thought this Board was going to be lead agency for SEQRA review. Since the Zoning Board wanted to address traffic, we agreed to provide them with a traffic report at that time. That's the reason why we were before them in December, and then we resubmitted. We actually had a snowstorm, I believe, in February, so the meeting was canceled. We were before them in March. We made a presentation

1 regarding traffic at that time and the board  
2 closed the public hearing, there was no  
3 additional public comment, and the board granted  
4 us a variance at that time.  
5

6 Since then Mr. Shaw has been doing the  
7 detailed site engineering. So at this point I'd  
8 like to turn it over to him so he can show you  
9 what he's done since last time you've seen the  
10 plans.

11 MR. SHAW: Thank you. The parcel is at  
12 the intersection of 9W and Carter Avenue. It's 4  
13 acres. It's in the B Zone. As Dominic said, it  
14 abuts an R-3 Zone to the rear. The residence  
15 abuts that zone line and fronts on Albany Post  
16 Road. I don't know if that helps the Board out at  
17 all.

18 Presently on the site there are  
19 numerous structures, a couple trailers; a lot of  
20 construction equipment; a lot of impervious  
21 surfaces, such as blacktop; a lot of construction  
22 stockpile material which has been deposited over  
23 the years and spread out; and four highway  
24 entrances onto 9W.

25 What we're proposing is to construct a

6,900 square foot convenience store and an eight-island fuel dispensing facility.

Along with that will be 58 parking spaces, which exceeds that required by your zoning ordinance which is 47 spaces.

There will be two entrances onto the project site, and I'll let Mr. Philip Grealy speak more about that in a minute, that would replace the four. Along with that there would be a road widening of 9W to accommodate a new lane.

With respect to the infrastructure, we will be tying into the Town's water system. The building will be sprinklered in accordance with the Town ordinance.

With respect to the sewage disposal system, there will be an on-site package plant. With us tonight is Mr. Bergman of Clough, Harbour Associates, and he will speak to that issue.

Finally with respect to the storm drainage system, again as I previously mentioned, the majority of the site is impervious. So with that, we've done a stormwater pollution prevention plan and prepared an analysis basically showing the post-development flow, the

pre-development flow, the mitigation of the slight increase, which means approximately 650 feet of 36 inch diameter pipe. For the treatment facility we're proposing a subsurface sand filter. Both the detention and the sand filter would be located near the entrance into the site.

We've submitted complete drawings. We've submitted a site lighting plan. The height of the fixture I believe is 15 feet, consistent with other projects that you've approved on 9W in that specific area.

We've also submitted a complete landscape plan which we had a review on.

So with that, that's a brief overview, and I would like to turn it over to Mr. Bergman to explain the sewage treatment plant. Thank you.

MR. BERGMAN: My name is a Jerry Bergman. I'm one of the engineers on the site. I just will deal with the proposed sewage treatment plant.

The site was -- the site has an existing treatment plant on it which is still in operation. A SPDES permit was issued in 1976 by



1 the DEC. The plant consists of septic tanks, a  
2 sand filter, a pump station that pumps the  
3 effluent to the sand filter, and a chlorinator at  
4 the end. The plant discharges to a catch basin  
5 on 9W some -- I believe this is it right here.  
6 We proposed to, of course, demolish that plant,  
7 abandon that plant and build a new plant. We  
8 supplied the Board with a study we did with three  
9 alternative plants. We aren't asking the Board  
10 to choose but we wanted to show the Board that  
11 there are options out there. Our flows for this  
12 facility will be approximately 1,500 gallons a  
13 day, I believe, and the SPDES permit is for  
14 4,000. So we'll be reducing the flow exiting the  
15 site.  
16

17 I think that's about it.

18 CHAIRMAN EWASUTYN: Thank you.

19 Phil Grealy from John Collins  
20 Associates.

21 MR. GREALY: Philip Grealy, John  
22 Collins Engineers. We prepared the traffic study  
23 for the site.

24 I think, just to start off, as Mr. Shaw  
25 indicated, this is Carter Avenue, 9W heading

northbound. You can see the existing multiple access points into this parcel that exist today.

We are proposing a full access opposite Carter Avenue, and that will require replacing and upgrading the traffic signal, so that will become a four-way intersection; multiple exit lanes from the site. We are also proposing to widen 9W along our frontage in order to develop a left- turn lane. Right now on Route 9W, during the morning peak hour you have in excess of 1,300 vehicles on that corridor. In the afternoon it's over 1,500 vehicles an hour. The areas that don't have turn lanes is where you have issues operationally. We have proposed the widening for that left-turn lane. We also, by modifying the light, will have controlled exit movements for left-turn movements. So your two critical movements on this site, left turns in and left turns out, will be handled by improvements, the road widening, and then the upgrade of the signal and aligning the driveway opposite the Carter Avenue signal.

The site will also have a right-turn in/right-turn out driveway.

1                                    In addition, because of the heavy  
2  
3                                    through traffic on Route 9W, we're also proposing  
4                                    a right-turn lane as you're heading northbound.  
5                                    So we would be reconstructing a portion of the  
6                                    shoulder, widening that, and then -- right now  
7                                    all the widening is proposed on the site side of  
8                                    the street. We have done a survey, or the  
9                                    surveyor has prepared a mapping so that we know  
10                                   right-of-way on either side of 9W. If we had to  
11                                   we could do some widening on the west side of 9W.  
12                                   It's more expensive. Right now our proposal is  
13                                   widening -- essentially widening opposite the  
14                                   left-turn lane for traffic going onto Carter  
15                                   Avenue. We will have a left-turn lane on 9W  
16                                   southbound. The right-turn lane would commence  
17                                   in front of the deli property and would extend up  
18                                   to the driveway. Again, right now it's all  
19                                   proposed on our site side of the street. We're  
20                                   in the process of working on a more detailed  
21                                   design of those improvements.

22                                   In terms of this type of use in a  
23                                   corridor like this, many of the trips are  
24                                   attracted off the existing traffic stream. So,  
25                                   you know, the reason that these types of

1 facilities want to go here is because of the high  
2 volume that's here already, and to take advantage  
3 of that volume.  
4

5 In terms of the rest of the access,  
6 we're also proposing a right-turn in/right-turn  
7 out driveway at the more northerly end of the  
8 property. The purpose of that is so we don't  
9 have to bring anybody back through the signal.  
10 And for those vehicles that want to access a  
11 portion of the site, they would have the ability  
12 to make a right turn in, or if they happen to  
13 pass the site and realize I want to go in, they  
14 have the ability to make that right-turn entry.  
15 That's pretty much it in terms of this immediate  
16 area.

17 As part of our study and in looking at  
18 some of the concerns of the Zoning Board, we had  
19 identified at Chestnut Lane and also at  
20 Fostertown Road the possibility of upgrading the  
21 signal controllers. The Department of  
22 Transportation has gone to a new type of  
23 controller which when we replace this signal,  
24 what's called a 2070 controller would go in here.

25 In terms of the traffic flow along the

1 corridor, and this we would work out in more  
2 detail with the DOT if it's acceptable to them,  
3 would be to provide the replacement controller at  
4 those two intersections so that that would allow  
5 a better coordination, and it would help assist  
6 traffic flow along the corridor. So those are  
7 just in the preliminary stages. I think the DOT  
8 is not going to say no to the controllers.  
9

10 Whether or not they actually interconnect, that  
11 would be something they seem to do over a period  
12 of time. It would be compatible equipment so it  
13 would take that out of their purview to have to  
14 upgrade those.

15 I think that's pretty much it, the  
16 overview.

17 We're just in that permit process. As  
18 we move forward we'll have more detailed plans.  
19 That's pretty much the way the plan works out  
20 now.

21 CHAIRMAN EWASUTYN: Mr. Rosenberg, when  
22 do you plan on putting your shovel in the ground?

23 MR. ROSENBERG: I think we have to --  
24 as soon as we end up getting our final site plan  
25 approval and going to the other agencies, we plan

1 on building the project. I think -- you know, I  
2 think DOT is a fairly lengthy process, and the  
3 DEC. We have to get through those two agencies.  
4 As soon as we get through those two agencies.  
5

6 CHAIRMAN EWASUTYN: At this point I'll  
7 turn to our consultants.

8 Jerry Canfield?

9 MR. CANFIELD: We have nothing  
10 additional. Our previous comments have all been  
11 addressed.

12 CHAIRMAN EWASUTYN: Pat Hines, Drainage  
13 Consultant?

14 MR. HINES: Our first comment has to do  
15 with the need for a DEC and DOT approval for the  
16 proposed package sewage treatment plant. There's  
17 some discrepancy in the SPDES permit that was  
18 provided. There's noted in two locations the  
19 groundwater discharge or conventional septic  
20 system, but in other parts of the permit there is  
21 a sampling requirement which isn't normally  
22 included in a subsurface sanitary sewer disposal  
23 systems. With that, the applicant is going to  
24 have to work through with the DEC to get their  
25 necessary approvals, and DOT needs to allow that

1 discharge location into their system. I'm told  
2 that it is currently a surface discharge in place  
3 now.  
4

5 MR. BERGMAN: That's correct. And we  
6 aren't sure whether there will be an amended  
7 SPDES permit or a new SPDES. But that's all  
8 right. We're prepared to do whatever DEC  
9 requires.

10 MR. HINES: We've reviewed the  
11 stormwater report identified and I discussed it  
12 with the Board at work session, how that was  
13 going to function, the combination of the  
14 end-pipe storage and the sand filter for water  
15 quality control. We found that report to be  
16 acceptable.

17 The sprinkler valving needs to be  
18 modified per Town standards such that when the  
19 fire suppression system is shut off the potable  
20 water to the building will be shut off. That can  
21 easily be accomplished by moving the location of  
22 the sprinkler valve opposite the potable water  
23 cap.

24 Sizing for the grease trap is also  
25 going to be required. That will be part of the

DEC's review on the sanitary sewer system.

We're asking that notes be added to the plans requiring an annual inspection of the stormwater collection and treatment system with certification to the town building department as to its functioning.

Notes requiring a demolition permit for any of the existing structures on the site should be added. A permit will be required for removal of any of those structures.

We're also suggesting that an additional sediment pond be added to the plans, since it discharges directly to a DOT culvert system at the property line, for additional sediment control.

That's all we have right now.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: In regards to zoning, as mentioned they did receive a variance for being within 1,000 feet of another gasoline station.

Other than that, it meets all setback requirements.

They're in the B Zone including the



buffer requirements for being against the residential zone.

In regards to SEQRA, the Planning Board does need to declare their intent for lead agency.

The plans need to be distributed to the Orange County Planning Department, Orange County Health Department, DOT, DEC which was previously mentioned.

In regards to the design guidelines, the applicant did utilize the recommendation for a gasoline filling station and having the gas pumps and the convenience store side by side instead of having the gas pumps closer to the road.

They do have some parking up in front but they did provide a stonewall and some landscaping to screen it. So I think it meets the intent of the design guidelines.

The next comment is a demolition permit will be required.

The applicant does have the option to defer the landscape bond until the issuance of the building permit. If they choose this option

a certificate of acknowledgement has to be filled out, and also put a note on the plans.

They're providing fifteen-foot high lighting fixtures which are also per the Town's zoning guidelines. They provided an iso foot candle diagram, and it looks like no light will be spilling onto adjacent properties.

They will need to submit architectural drawings and a detailed signage plan.

Just a revised EAF should be submitted in regard to the information on threatened and endangered species.

CHAIRMAN EWASUTYN: Thank you.

Karen Arent, Landscape Architect?

MS. ARENT: The stonewall proposal on the front of the site will be a very attractive addition to the Route 9W corridor.

There are some rock outcrops and trees along the southwestern property line. I just ask Greg if he can look at potentially saving those by revising the grading if it's possible.

Basically several of my comments have to do with adding more large growing, deciduous trees on the site rather than -- there are some

1 crab apples in the islands, and to consider  
2 replacing those with large growing, deciduous  
3 trees. The reason for trees in parking lots is  
4 basically to help shade the asphalt and cool it  
5 down. To add a couple more deciduous trees  
6 around the parking area so that you're in  
7 conformance with the Town of Newburgh code of one  
8 shade tree for every eight spaces. To also show  
9 some street trees along the Route 9W corridor but  
10 inside so it's not within sight lines as you're  
11 exiting the site.  
12

13 To take a look at the placement of the  
14 bollards on the asphalt side of the concrete  
15 curb, and to consider potentially placing them on  
16 the sidewalk side because usually the snowplows  
17 like to run their snowplow along the concrete  
18 curb when they're plowing. Also, it's a nicer  
19 design detail sometimes. With the bollards on  
20 top you can do a nice pattern on the concrete.

21 Then to also let us know what the color  
22 of the proposed modular block retaining wall will  
23 be.

24 CHAIRMAN EWASUTYN: Ken Wersted,  
25 Traffic Consultant?

1                   MR. WERSTED: I just had a couple of  
2                   comments. We had previously addressed the  
3                   traffic volumes and the traffic study in February  
4                   before the second Zoning Board meeting. The only  
5                   new comments that I have on the project basically  
6                   involve some of the more recent developments that  
7                   we've done on other projects in the corridor,  
8                   namely with the introduction of sidewalks across  
9                   the site frontage. With two projects to the  
10                  north, we had looked at those and recommended  
11                  that sidewalks be constructed because it was  
12                  going to provide an access through that area, and  
13                  basically a refuge to protect any pedestrians  
14                  walking along Route 9W to get off of the shoulder  
15                  and onto a safer facility. So we raised that  
16                  question for this project as well.

17                 The only other comment that we had had  
18                 to do with the widening of the road to the site  
19                 side. It would appear that the new curb line at  
20                 the intersection to the south will be right on or  
21                 very close to the property line, particularly  
22                 with the lands of Dara.

23                 The site plan doesn't really show any  
24                 features or any locations of anything on that  
25

side of that site, so it would probably be helpful for DOT to review to see where the curb cuts are on the lands of Dara, and where the parking lot is and so forth.

That was basically the extent of our comments.

CHAIRMAN EWASUTYN: Thank you.

Comments from Board Members. Frank Galli.

MR. GALLI: I just had a question on the traffic lane also. How much of it was going to be -- well, it will all be DOT right-of-way; correct?

MR. GREALY: Correct.

MR. GALLI: How much right-of-way do they have there?

MR. GREALY: Well it varies. The shape of it varies, but it ranges 60 to 65 feet in some areas. In some areas it's a little tighter. Generally 60 feet.

MR. GALLI: In other words, if you upgraded that lane you would have to upgrade the front of the neighbor's property it's affecting?

MR. GREALY: If we do all the widening

1 on the site side of the street, the answer is  
2 yes, we would have to deal with the treatment  
3 there. There's an option where we would do some  
4 widening on the west side so then the amount of  
5 widening in front of that property would be  
6 decreased. But it's a cost benefit then because  
7 sometimes it's easier to upgrade that property  
8 than it is to work on both sides of Route 9W. So  
9 that's kind of at the point we're at now in terms  
10 of nailing down some of those details.  
11

12 MR. GALLI: That's the only question I  
13 had, John.

14 CHAIRMAN EWASUTYN: Thank you.

15 Ken Mennerich?

16 MR. MENNERICH: No questions.

17 CHAIRMAN EWASUTYN: Joe Profaci?

18 MR. PROFACI: Nothing.

19 CHAIRMAN EWASUTYN: Tom Fogarty?

20 MR. FOGARTY: Yeah, John. I noticed  
21 that in this document that you provided regarding  
22 the three alternatives. Can I assume you haven't  
23 made a decision yet as to which one?

24 MR. BERGMAN: We have not made a  
25 decision.

1  
2 MR. FOGARTY: Okay. I noticed the size  
3 of the project went from 8,300 square feet down  
4 to 6,900. I was just curious as to why there was  
5 a decrease in size of the building?

6 MR. SHAW: Because my client asked me  
7 to reduce the building. That's the best answer I  
8 can give you.

9 MR. FOGARTY: All right.

10 MR. ROSENBERG: It was just a user size  
11 change. That's all.

12 MR. FOGARTY: Okay. One other thing.  
13 We talked about it in the work session. This is  
14 surrounded by a number of homes. My question  
15 was, and it was answered during the work session,  
16 I was just curious that the project didn't have  
17 any impact, you know, with lighting and things  
18 like that on those homes. According to the  
19 information I received, it doesn't.

20 MR. SHAW: I think that's correct in  
21 all cases. These are the homes on Albany Post  
22 Road. This is our site in yellow. Right here is  
23 where our building is. And yes, you have a  
24 thicket of what I would call heavy woods through  
25 here. You can not see the residences at all

1 during the summer. Maybe in the winter, when  
2 they shed their leaves, you probably will have  
3 more of a view. There's a substantial drop in  
4 elevation from these home sites to 9W. To give  
5 you an example, we are at this elevation on 9W of  
6 294. At the rear of this house it's 336. So  
7 it's like 40 feet up in the air. As you go down  
8 the differential gets to be less, but I really  
9 think you're going to be seeing over this  
10 building, even during the winter months.

11 MR. FOGARTY: I do, too.

12 One other thing. I noticed in the EAF  
13 it mentioned there would be an impact on  
14 endangered species. Has that been addressed  
15 or --

16 MR. CORDISCO: If we said yes, we meant  
17 no.

18 MR. FOGARTY: It was yes.

19 CHAIRMAN EWASUTYN: This is the  
20 attorney now.

21 MR. CORDISCO: The site is already  
22 developed and --

23 CHAIRMAN EWASUTYN: Good choice.

24 MR. CORDISCO: If there's an endangered  
25



species out there that can thrive in this environment, they're probably not endangered.

MR. FOGARTY: It says will proposed action affect any threatened or endangered species, yes.

MR. CORDISCO: We will submit a corrected statement.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Is there any proposed sidewalk in the front along 9W?

MR. GREALY: Right now we don't have a sidewalk proposed. We received your consultants' comments tonight, so it's something we'll have to look at.

MR. WARD: Okay.

MR. GREALY: I guess, just in terms of input from the Board, that would be helpful. I mean is that the direction we're going along 9W?

MR. GALLI: We would like to. I mean, that's up to you, but that's the direction we'd like to take.

MR. ROSENBERG: Is there room for a sidewalk there?

MR. GREALY: Along our frontage we have

1 some area. I guess one of the questions I would  
2 have relative to a sidewalk in the frontage area  
3 -- I'll show you. South of our site right now  
4 with our layout there's no room to add any  
5 sidewalks where that lane would be added. Along  
6 our frontage, once you get past our driveway you  
7 start to get impacting of the grades coming off  
8 of 9W. We do have the stonewall. We'd have to  
9 look at that effect. Another issue -- another  
10 possibility would be to, you know, bring  
11 something in along the site to get them away from  
12 the travel lane. I think that's -- you know, the  
13 travel path. It's probably safer overall in this  
14 type of situation. It would be lit. That may be  
15 something we'll look at. We'll have to address  
16 it.  
17

18 CHAIRMAN EWASUTYN: All right. If you  
19 have an alternative you would like to present to  
20 us, we're open for reviewing that.

21 MR. WARD: Thank you.

22 CHAIRMAN EWASUTYN: At this point I  
23 would like to turn to Mike Donnelly, Planning  
24 Board Attorney.

25 MR. DONNELLY: I think you need to

1  
2 issue a lead agency notice of intent, refer this  
3 to the Orange County Planning Department. You  
4 did grant conceptual approval back in November of  
5 2009. You probably need to consider whether or  
6 not you're going to hold a public hearing.

7 CHAIRMAN EWASUTYN: Okay. At this  
8 point I'll make a motion that will cover two  
9 points: One, that we circulate to the Orange  
10 County Planning Department, and also that we  
11 declare our intent for lead agency.

12 MR. PROFACI: So moved.

13 MR. GALLI: Second.

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

18 MR. GALLI: Aye.

19 MR. MENNERICH: Aye.

20 MR. PROFACI: Aye.

21 MR. FOGARTY: Aye.

22 MR. WARD: Aye.

23 CHAIRMAN EWASUTYN: Myself, yes. So  
24 carried.

25 I'll motion from the Board now to see

if they would like to have a public hearing,  
which is discretionary.

MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: Yes.

MR. WARD: No.

CHAIRMAN EWASUTYN: And myself, no.

So at this point let the record show  
that the Planning Board waived a public hearing.

Who is responsible -- Greg, you'll give  
the plans to Bryant Cocks and Bryant Cocks will  
make the necessary circulation.

MR. CORDISCO: We'll also revise the  
EAF to correct that mistake.

CHAIRMAN EWASUTYN: I appreciate that.

(Time noted: 8:35 p.m.)

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

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

DATED: September 16, 2010

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

- - - - - X

In the Matter of

CINTAS WATER RECLAMATION TRAILER  
(2010-10)

Granting of Conditional  
Final Amended Site Plan Approval

- - - - - X

BOARD BUSINESS

Date: August 19, 2010  
Time: 8:35 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: 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

MR. PROFACI: We have three items of Board Business. The first is a discussion of the Cintas Water Reclamation Trailer.

The thirty-day timeframe for comments from Orange County Planning Department has expired. The Planning Board can discuss granting conditional final amended site plan approval.

CHAIRMAN EWASUTYN: Mike, I think at this point we are ready to move for that motion.

MR. DONNELLY: I have a resolution. I don't know if you -- my notes don't say whether you formally waived the public hearing for site plan. It is an amended site plan.

In terms of the conditions, they're rather simple. We say except as modified in this resolution, all conditions attached to the granted site plan approval remain in effect. We had the standard condition for Architectural Review Board approval, essentially approving what is already in place. And a final condition, your standard one that says that no construction of any fixtures or amenities not shown on the plan may take place on the site.

CHAIRMAN EWASUTYN: First I'll poll the

Board Members to see if they would like to have a public hearing on the existing Cintas, I'll call it trailer in the rear yard.

MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: And myself no. So the Board waived the option to have a public hearing on the application of the Cintas Water Reclamation Trailer.

The next action would be to grant conditional approval for the Cintas Water Reclamation Trailer subject to the conditions in the resolution presented to us this evening by Mike Donnelly, Planning Board Attorney.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a



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CINTAS WATER RECLAMATION TRAILER

97

roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself in favor.

Yes.

(Time noted: 8:38 p.m.)

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

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

\_\_\_\_\_  
DATED: September 16, 2010

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

- - - - - X  
In the Matter of

MID-HUDSON II HOLDING CO.  
(2007-37)

Request of an Extension of Site Plan Approval

- - - - - X

BOARD BUSINESS

Date: August 19, 2010  
Time: 8:38 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: 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

MR. PROFACI: Our next item of Board Business is Mid-Hudson II Holding Company, a request for an extension of site plan approval from July 24, 2010 to July 24, 2011.

CHAIRMAN EWASUTYN: If you recall, that's the site plan located on North Plank Road, just about contiguous to Midas Muffler. It was represented by A.J. Coppola. He had a letter asking for this extension.

So I'll move for a motion from the Board to grant that one-year extension for project number 2007-37.

MR. FOGARTY: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So  
carried.

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

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

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

\_\_\_\_\_  
DATED: September 16, 2010

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

----- X  
In the Matter of

NEW YORK BUILD, LLC  
(2005-09)

Request for Release of Landscape Inspection Bond

----- X

BOARD BUSINESS

Date: August 19, 2010  
Time: 8:40 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: 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

1  
2 MR. PROFACI: Our final item of Board  
3 Business tonight is New York Build, LLC, a  
4 request for release of the landscape inspection  
5 bond in the amount of \$2,717.82.

6 CHAIRMAN EWASUTYN: Okay. Karen Arent,  
7 our Landscape Architect, is going to check her  
8 files to see if this was a bond amount that we  
9 had approved or in fact it was a referral to the  
10 Town Board.

11 I think to properly save some time,  
12 I'll move for a motion now, Karen, to approve the  
13 release of the landscape bond amount as Joe  
14 presented for New York Build, LLC for the amount  
15 of \$2,717.82. Any correction to this motion will  
16 be notified by Karen Arent, our Landscape  
17 Architect. If any action needs to be referred to  
18 the Town Board, Karen will successfully do that.

19 For now I'll move for the motion to  
20 approve.

21 MR. MENNERICH: So moved.

22 MR. PROFACI: Second.

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

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NEW YORK BUILD, LLC

104

Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So  
carried.

Thank you.

(Time noted: 8:42 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  
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\_\_\_\_\_  
DATED: September 16, 2010