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

----- X

In the Matter of

MOZO PROPERTIES
(2014-14)

Mountain View Avenue
Section 4; Block 1; Lot 44

----- X

PUBLIC HEARING
CLEARING & GRADING TIMBER HARVEST

Date: September 4, 2014
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CHRISTOPHER PRENTIS

----- X

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

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MR. BROWNE: Good evening. Welcome to the Planning Board meeting of September 4, 2014.

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

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that give us guidance and direction on plans before us and reviews. I'd ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Code Compliance Supervisor.

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

MR. BROWNE: Thank you. At this time I'll turn it over to John Ward.

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MR. WARD: Please stand to say the Pledge.

(Pledge of Allegiance.)

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

MR. BROWNE: Thank you.

This evening on the agenda we have two public hearings. Before I ask Mike to do a dissertation, is there anyone here in the public that's interested in speaking or whatever?

(No response.)

MR. BROWNE: Then we'll forego the introduction to that part.

Okay. The first item of business we have on the agenda is Mozo Properties, project 2014-14. This is a public hearing for a grading and clearing timber harvest. It's being presented by Lower Hudson Forestry Service.

I would ask Ken Mennerich to read the notice of hearing, please.

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

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public hearing pursuant to the Municipal Code of the Town of Newburgh, Chapter 83-8, Section E, on the application of Mozo Property clearing and grading timber harvest, project 2014-14, for selective harvesting of timber. The project site is located on the east side of Mountain View Avenue in the Town of Newburgh, designated on Town tax maps as Section 4, Block 1, Lot 44.1 and 44.2. The applicant will be selected timber harvesting of approximately 12 acres of a 14 plus or minus acre site. The applicant proposes to harvest 134 trees from the 12 acre portion of the site, approximately 12 trees per acre. Said hearing will be held on the 4th day of September 2014 at the Town of Newburgh Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard regarding the proposed timber harvesting. By order of Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated August 18, 2014."

MR. PRENTIS: Good evening. I'm Chris Prentis with Lower Hudson Forestry Services.

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As the public meeting notice stated, the 12 acre selective harvest is on approximately a 14 acre parcel located on the east side of Mountain View Avenue. There's 134 trees to be removed. That's approximately 12 trees per acre.

The landing area will be in a currently open area that's grass right now.

Skid trails will be cleared -- cleaned and graded off. Water bars, water dips, water division devices will be installed where needed.

As per request from the last meeting we had back in July, there's a fifty-foot no cut buffer along the creek that flows on the east side of the property.

The property also is in the Chadwick Lake watershed, so we're going to take special care to prevent erosion and sedimentation. The fifty-foot no cut buffer is going to help with that as well.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Any questions or comments from the public? This gentleman.

MR. SAFFIOTI: I notice that the trees in the forest are marked blue and red. Can you

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define the difference?

CHAIRMAN EWASUTYN: Can you give your name and your address?

MR. SAFFIOTI: James Saffioti, Jennifer Rose Way, Wallkill, New York.

CHAIRMAN EWASUTYN: Thank you.

MR. PRENTIS: The trees to be harvested are the trees marked in blue. A couple years ago a logger came in and marked other trees in red. That's the difference of the two colors.

MR. SAFFIOTI: You're using blue?

MR. PRENTIS: I used blue, yes.

MR. SAFFIOTI: Okay. The fifty-foot buffer, do you think that's going to protect the lake and the stream and all that? Are you guys confident on that?

MR. PRENTIS: You know, with proper erosion control devices, and it's relatively rocky ground, you're going to have minimal soil disturbance. A fifty-foot buffer should be sufficient.

MR. SAFFIOTI: When you do take down the trees, are you going to remove the brush or are they going to be stacked?

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MR. PRENTIS: The contractor does take a lot of the tops for firewood, and then anything else that's not taken is lopped down typically to a height of about this high or lower.

MR. SAFFIOTI: That's the stump?

MR. PRENTIS: No. That's the limbs, the tops. The brush that's on the ground, that doesn't get touched.

MR. SAFFIOTI: As far as the limbs and all of the other debris from the trees, will you be grinding those up or will they be shredding them?

MR. PRENTIS: No. They'll be lopped and left on site to naturally decompose.

MR. HINES: There's a requirement that they be cut below three feet in the contract. The treetops will be cut up in small pieces, no more than three feet high. The stumps will not be removed as part of the harvest.

MR. SAFFIOTI: But as far as the three foot on the application, it's just that they can stack anything up no higher --

MR. HINES: They don't stack it. It's chopped so it lays.

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MR. SAFFIOTI: Flat.

MR. HINES: When done properly, a year from now you won't even know it happened.

MR. PRENTIS: Right.

MR. SAFFIOTI: Now you did -- on section 4 from you guys, the letters here, number 4, how close are you going to come to my property?

MR. PRENTIS: We did leave a buffer along the property line. There was a concern from the Town that the line wasn't actually known, but there has been a recent survey within the past year. The line has been defined, but just due for aesthetics there's going to be probably twenty-five feet that's not going to get cut along the property line. It would be basically that whole north line. I believe that's where your house is.

MR. SAFFIOTI: I'm on the north end, yes. That's it.

Again, just to clarify, the blue is what's coming down?

MR. PRENTIS: Correct.

MR. SAFFIOTI: The red will not be

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MOZO PROPERTIES

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touched?

MR. PRENTIS: There's some trees that are both red and blue. The blue is the trees that are getting cut. There are some trees marked just in red with no blue. Those will not be cut.

MR. SAFFIOTI: Those will not be cut?

MR. PRENTIS: Correct.

MR. SAFFIOTI: The last question I guess is is it a Monday through Friday situation or --

MR. PRENTIS: Monday through Friday. The Town has regulations, I believe it's 8 until 5.

MR. HINES: 7 a.m.

MR. PRENTIS: 7 a.m.

MR. DONNELLY: 8 to 6.

MR. SAFFIOTI: Weekends? How long do you think it's going to take?

MR. PRENTIS: If the weather cooperates, it shouldn't take more than a couple weeks.

Weekends, I believe the Town allows you to work Saturday.

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MR. DONNELLY: Here's what the rules are: Hours of operation under the permit shall be from 8 a.m. to 6 p.m. Monday through Friday. Log hauling truck activities shall be limited to the hours of 10 a.m. to 2 p.m. Monday through Friday. No activities of any kind shall be conducted on Saturdays, Sundays or on public holidays.

MR. PRENTIS: Okay. Just Monday through Friday.

MR. SAFFIOTI: How many trucks -- how many of those do you plan on taking out of there? Do you guys have an estimate on that?

MR. PRENTIS: Logs, it's going to be about five loads. Firewood will be somewhere between another three and five. The firewood truck is not as big as a log truck.

MR. SAFFIOTI: Only five log trucks?

MR. PRENTIS: Correct.

MR. SAFFIOTI: It's not going to put that much strain on the road, on Mountain View Avenue?

MR. PRENTIS: No.

MR. HINES: The Town does require a

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bond in case something does occur.

MR. SAFFIOTI: Okay.

MR. PRENTIS: Yes.

MR. SAFFIOTI: Thanks.

CHAIRMAN EWASUTYN: Any additional questions or comments from the public?

(No response.)

CHAIRMAN EWASUTYN: I'd like to turn at this point to Jerry Canfield, Code Compliance. His office received the application. The process requires that it be referred to the Planning Board.

Jerry, do you want to bring us along at this point?

MR. CANFIELD: The application has been brought before the Planning Board which brings us to this point with the public hearing. Should the Board choose to approve this application, we can move on to issuance of the actual timber harvest permit.

A point of interest. Last time this application was before the Board there was a question with respect to the section, block and lot. I did verify with the assessor's office, it

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is one lot. I believe in the notice of hearing it was identified as two lots. They are just for taxation purposes. It's 44-1.-1 and 1.-2 which are significations that there's some type of tax break or some type of exemption on the property. In this case I believe it may have been a veteran's exemption. Just for the record, it is one lot.

I think Pat will get into the securities. In addition to the securities of course is the inspection fee which the Town has either the drainage consultant and/or our arborist go check the sites as well to verify that the contractor is doing as presented in the conditions of approval.

That's all I have.

CHAIRMAN EWASUTYN: Pat Hines, Planning Consultant?

MR. HINES: Our previous comments have been addressed. The Town typically requires a \$5,000 bond for access to the public streets in case there is any damage. That is returned if there isn't any damage or is utilized to enforce the repairs should there be any damage by the

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MOZO PROPERTIES

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logging trucks.

We have no further comments on this.

CHAIRMAN EWASUTYN: James, any additional questions or comments?

MR. SAFFIOTI: No.

CHAIRMAN EWASUTYN: Board Members?

(No response.)

CHAIRMAN EWASUTYN: Okay. At this point I'll make a motion to close the public hearing for the clearing and grading timber harvest permit for Mozo Properties located on Mountain View Avenue.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

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MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

Mike Donnelly, Planning Board Attorney,
would you give us conditions of approval for the
clearing and grading and timber harvest permit?

MR. DONNELLY: First I note, unless my
notes are incorrect, you have not yet issued a
declaration of significance under SEQRA. Beyond
that, the conditions are fairly standard.

One, I ask Pat or Jerry does the
highway superintendent need to verify that there
are no weight limit regulations that are at issue
here?

MR. HINES: There is not.

MR. DONNELLY: Okay. So the applicant
shall -- these are the conditions: The applicant
shall comply with the requirements of Section
83-10 which are the standards for granting
permits at all times. Prior to issuance of the
permit, the applicant must post a \$5,000 roadway
bond and a \$1,000 inspection fee. As required by
Section 83-11, the following requirements shall
govern this permit: The first I read earlier

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which is the hours of operation. Secondly, any contractor to perform activities under this permit shall state that it is subject to Chapter 83 of the Newburgh Code and to the terms and conditions of this resolution. Appropriate warning signs shall be posted before any work under the permit may begin.

We've included that in the past. Is that appropriate here?

MR. HINES: I think that was unique to the --

MR. DONNELLY: Baseball field?

MR. HINES: No. The one along Gardnertown Road.

MR. DONNELLY: I'll leave that condition out.

The permit shall have a duration of one year from issuance.

CHAIRMAN EWASUTYN: Any questions, comments or additions to the resolution granting conditional final approval?

(No response.)

CHAIRMAN EWASUTYN: Okay. The first action I'll move for then is to declare a

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MOZO PROPERTIES

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negative declaration on the clearing and grading
timber harvest permit for Mozo Properties.

MR. PROFACI: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: A motion by Joe
Profaci, a second by David Dominick. Any
discussion of the motion?

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

MR. HINES: If I could, the hours of
operation, Mike, I think those are a remnant of
that individual permit also.

MR. DONNELLY: They're not from the
Code?

MR. HINES: They're not from the Code.

CHAIRMAN EWASUTYN: From Chapel Road.

MR. CANFIELD: That was specific to

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that. There was a concern I think with the school bus traffic in that particular one, and that's where that came from.

MR. DONNELLY: I'm sorry. I'll just make reference to Section 83-11 then.

MR. HINES: That will give you the early morning flexibility.

MR. PRENTIS: If you don't want weekends, I don't have a problem restricting it if that's -- if you're requesting that.

MR. SAFFIOTI: When are you planning on starting?

MR. PRENTIS: I'd really have to talk to him and see what he has scheduled.

MR. SAFFIOTI: For myself -- myself and my wife, my wife is out of the house at 6:30, so --

MR. PRENTIS: On the weekends?

MR. SAFFIOTI: Weekends, no.

MR. PRENTIS: I don't have a problem accommodating you and the neighbors. If you don't want weekend work, we can write that in there.

MR. SAFFIOTI: I mean that's your call.

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I'm not -- I'm just here -- I'm more concerned with the stream and the reservoir and any other things that go on there. You know, I would assume you guys touched base on animals and stuff, if there's any animals that need to be protected there. I know there's a lot of owls and stuff back there. I'm not sure about that. I assumed that's all been taken care of.

MR. PRENTIS: That's part of the SEQRA review. It states --

MR. HINES: Environmental quality review.

MR. PRENTIS: The resource mapper shows there's no rare, or threatened, or endangered species in that area.

MR. SAFFIOTI: As far as the weekend, I mean, you know, no Sundays.

MR. HINES: Sundays are excluded.

MR. PRENTIS: Saturday, like I said, to keep the neighbors happy I don't have a problem doing that.

MR. SAFFIOTI: You know, 10 to 2.

MR. HINES: What I would suggest is we put the language in the Code and if you want to

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impose something on your contractors, that's fine.

MR. PRENTIS: Okay. Fair enough.

CHAIRMAN EWASUTYN: Do you want to, for the record, restate the resolution on the hours then?

MR. DONNELLY: I'll simply reflect he must comply with the provision of Section 83-11 which sets forth the limitations in the permit.

CHAIRMAN EWASUTYN: Then I'll move for a motion to grant the clearing and grading timber harvest permit subject to the conditions presented in the resolution by Planning Board Attorney Mike Donnelly.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich, a second by Joe Profaci. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Myself. So
carried.

Thank you for coming out this evening.

(Time noted: 7:16 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: October 2, 2014

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

----- X
In the Matter of

CASSARA SUBDIVISION
(2014-06)

442 Fostertown Road
Section 17; Block 2; Lot 32.12
AR Zone

----- X

PUBLIC HEARING
THREE-LOT SUBDIVISION

Date: September 4, 2014
Time: 7:16 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

MICHELLE L. CONERO
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Wallkill, New York 12589
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MR. BROWNE: Our next item of business is Cassara Subdivision, project 2014-06. This is a public hearing for a three-lot subdivision being presented by --

MR. MARSHALL: Larry Marshall.

MR. BROWNE: I'll ask Ken Mennerich to read the notice of hearing, please.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Cassara Subdivision/Site Plan, project 2014-6, for a three-lot subdivision and site plan for a two-family home on premises 442 Fostertown Road in the Town of Newburgh, designated on the Town's tax map as Section 17, Block 2, Lot 32.12. Said hearing will be held on the 4th day of September 2014 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn,

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Chairman, Planning Board Town of Newburgh. Dated August 11, 2014."

MR. BROWNE: Mr. Marshall.

MR. MARSHALL: This is a proposed three-lot subdivision on the northeasterly side of Fostertown Road near Summit Ridge Road in the AR Zoning District.

We're proposing to take the existing 4.7 acre parcel and subdividing it into three parcels with lot 1 containing a two-family residence, lot 2 will contain the existing buildings and barns that are on the lot currently, and lot 3 would be a single-family residential home.

Lot 2 received a variance from the ZBA for front yard setback on June 26, 2014.

All of the septic systems have been designed in conformance with New York State and Orange County Department of Health rules and regulations.

The proposed and existing entrances for the three lots have been approved by the Orange County Department of Public Works.

CHAIRMAN EWASUTYN: Thank you.

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Any questions or comments from the public this evening?

(No response.)

CHAIRMAN EWASUTYN: Questions or comments from the Planning Board Members?

(No response.)

CHAIRMAN EWASUTYN: I'll turn, at this point, to Pat Hines, Drainage and Planning Consultant.

MR. HINES: The project, as Mr. Marshall said, received approval from the DPW for the driveway access.

County Planning gave it a local determination with a recommendation that it be sent to the County DPW, which they have that permit.

ARB approval for the duplex is required. Otherwise our previous comments have all been addressed.

CHAIRMAN EWASUTYN: Larry, do you have a rendering of what the proposed --

MR. MARSHALL: Yes. We previously submitted that.

CHAIRMAN EWASUTYN: Can you put it up?

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MR. MARSHALL: Sure. We have a color rendering. It's really small.

It will have the appearance of a single-family home. It's a standard viable siding.

CHAIRMAN EWASUTYN: Can you pass that around?

MR. MARSHALL: Absolutely.

CHAIRMAN EWASUTYN: Do you want to go through the colors, Larry?

MR. MARSHALL: I do not have the colors. The owner of the property did not indicate the colors that he was looking to put on the building.

CHAIRMAN EWASUTYN: Jerry, could you inform Larry as to what form needs to be filled out as far as ARB and colors and such for the Building Department?

MR. CANFIELD: There is a Planning Board form that is available in the Planning Board office. It depicts the colors to be used and materials. It's pretty generic, very easy to fill out. Then at least the Planning Board has on file what the colors are to be.

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MR. MARSHALL: We will obtain that form.

CHAIRMAN EWASUTYN: Do you have anything else to add, Jerry?

MR. CANFIELD: Excuse me?

CHAIRMAN EWASUTYN: Do you have anything else to add?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: Mike, have we made a SEQRA determination on this?

MR. DONNELLY: Yes, you did.

CHAIRMAN EWASUTYN: Thank you.

If there are no further questions or comments from the public, I'll move for a motion to close the public hearing on the three-lot subdivision for Cassara located on Fostertown Road in an AR Zone.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich, a second by Joe Profaci. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

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MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

Mike Donnelly, Planning Board Attorney,
can you present to the Board Members the
resolution for approval?

MR. DONNELLY: The resolution is for
subdivision, site plan and ARB. We will
reference the ZBA variance that was granted. The
approval by the Orange County DPW as well. The
standard ARB condition will be included for the
duplex unit but it will be subject to the
applicant submitting the required form listing
the materials and colors that are proposed for
the duplex unit. I believe there's one existing
home and two new lots, one of which is a duplex.
That gives us a total of three units, so the
parkland -- fee in lieu of parkland will be
\$6,000.

CHAIRMAN EWASUTYN: Thank you.

If there are no further questions or
comments from the Planning Board Members or the

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Consultants, I'll move for a motion to grant conditional subdivision, site plan and ARB approval subject to the conditions outlined by Planning Board Attorney, Mike Donnelly, in the resolution.

MR. WARD: So moved.

MR. BROWNE: John, was there -- the part for the ARB, how is that approval going to work for that?

CHAIRMAN EWASUTYN: Mike Donnelly said he has to fill out the necessary forms.

MR. BROWNE: Just fill out the form and then Jerry --

CHAIRMAN EWASUTYN: Jerry's office, when it's being built -- correct, Jerry? It just helps them identify what is being built from the form.

MR. BROWNE: Thank you.

MR. MENNERICH: In continuation of that --

MR. HINES: As long as the form doesn't say blaze orange or something.

MR. MARSHALL: It will be very similar to -- he built a house in Crawford and it will be

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similar to that, earth tones. Nothing bright red, bright orange.

MR. WARD: Canary yellow.

CHAIRMAN EWASUTYN: We have a motion by John Ward, we had discussion by Cliff Browne and Ken Mennerich. Do I have a second to the motion?

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: And a second by Joe Profaci. I'll ask for a roll call vote for approval starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you.

MR. MARSHALL: Thank you very much.

(Time noted: 7:25 p.m.)

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

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

DATED: October 2, 2014

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

----- X
In the Matter of

DEPEW ENERGY
(2014-09)

5182 Route 9W
Section 43; Block 5; Lots 41.2 & 42

----- X

AMENDED SITE PLAN

Date: September 4, 2014
Time: 7:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: MICHAEL LYNCH

----- X

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

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MR. BROWNE: Our next item of business is Depew Energy, project 2014-09. It's an amended site plan being presented by Engineering Properties.

Would you give your name, please?

MR. LYNCH: My name is Mike Lynch, Engineering Properties, for Depew Energy.

We're seeking site plan approval for the Depew Energy site plan.

It's a pretty simple site plan. Most of what you see here is existing. We are proposing an addition to their service building. The addition complies with zoning. We did receive a variance for front yard setback on the existing portion of the building on July 24th of 2014.

We're also proposing an additional 30,000 gallon propane tank to go behind the existing propane tank that's on the site right now.

We're also proposing to pave the customer parking area in front of the existing building as well.

CHAIRMAN EWASUTYN: Okay. We'll start

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with Pat Hines, Engineer for the Planning Board.

MR. HINES: Our first comment just acknowledges the ZBA approval with the condition on some signage that needs to be modified.

We did send out lead agency and received back from the County a deferral to your Board. So you are now lead agency for the project.

There are four access points to the two lots that are going to be a unified site plan. We believe that based on the density of use, it should be submitted to the DOT. They may or may not require closing those off. They are existing but I believe with the additional square footage of the buildings and the additional propane tank, there is an increase in the intensity of use.

As we talked at work session, the rear of the parcel and the majority of the northerly most parcel is currently in a gravel condition. The Board typically requires sites before them, when they come back in for such modifications, to be paved, which I believe the Board should make a determination on. It's difficult to -- they show the parking striped and the loading zone striped,

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and those things can't happen -- even a handicap parking spot on the northern lot, they can't happen on gravel surfaces obviously.

MR. LYNCH: Pat, I'm sorry, I mean the parking spaces that we're showing here, we're basically just showing we comply with zoning, we're not so much planning on striping that. However, the customer parking in the paved area we will stripe.

MR. HINES: And the discussion at the work session was the Town has a policy of the requirement for a dust free surface, but it's always been a policy commercial activities take place on paved surfaces. I'll defer to the Board as to how they want to handle that.

We had several of these recently where you did require that the sites be upgraded with pavement. I don't know if you want to discuss that now, John.

CHAIRMAN EWASUTYN: Let's further the review.

MR. HINES: The handicap spaces in the front, they have a strange -- is there some kind of porch there or something?

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MR. LYNCH: It's actually just pavers. They're level with the parking surface. So that would just --

MR. HINES: You may have to paint over your pavers is the issue. The ADA requirements --

MR. DEPEW: Whatever you want.

MR. HINES: There's a note on the plans requiring a deed restriction that the site be run as a unified site plan. We do have, I think, some boilerplate language. We've done that on other sites. If you could work with the Planning Board Attorney to come up with those deed restrictions and how that's going to operate.

Snowplowing and those other maintenance issues all need to be tied into that so one site is not snow plowed and the other is and vice versa.

There's an 18.7 foot access drive restriction due to the parking layout. I'll defer to Jerry on that. I think 20 feet is required through that area. There will need to be a modification of either that parking spot or something on that site.

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The outdoor storage of the empty propane cylinders, which is depicted in two locations in this zone, outdoor storage is permitted but has to be screened. It says by landscaping. The Board has also allowed fencing. The code says landscaping but we have had other opaque barriers, either fencing or landscaping. That will need to be addressed for that.

We're looking for some more detail on the rear slope grading. If you drive up and down the corridor you can see anywhere where these slopes, specifically this 9W corridor, have been disturbed, they're difficult to get back into a grass condition. We've seen it at the fire station down the road, the gas welding site up the road certainly is a very poor example to utilize. Just more detail there, the topsoil and how that's going to be worked out.

Then the Board needs to determine whether or not a public hearing is going to be held on the site.

CHAIRMAN EWASUTYN: Okay. Thank you. Let's start with the note. It's a discussion with the Planning Board as to whether or not

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they'd like to hold a public hearing on the site plan. I'll poll the Board Members starting with Cliff Browne.

MR. BROWNE: No.

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: David Dominick?

MR. DOMINICK: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No.

CHAIRMAN EWASUTYN: Okay. Let the record show that the Planning Board waived the need for a public hearing on the application for the amended site plan for Depew Energy.

Okay. I guess the other outstanding question is based upon the dustless surface for the upper portion of the site plan, does the Board want to see an asphalt coating and striping? We'll start with Cliff Browne.

MR. BROWNE: I believe in this situation that it should be paved. If we -- if it's -- leave it at that. I believe it should be paved.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have a question. The number of trucks you have that will be parked back there, will it be this number of spaces being filled up with trucks?

MR. LYNCH: I mean the site plan is not going to really change the amount of trucks that are used on the site right now. I mean the day-to-day operation that they have going on right now is basically going to remain the same. It works for them now, so --

MR. MENNERICH: How many trucks is that?

MR. LYNCH: The exact number I'm not sure. Paul?

MR. DEPEW: There's ten delivery trucks.

MR. MENNERICH: Ten delivery trucks.

MR. DEPEW: And the service vehicles, but the service techs take them home. They're usually not there at the same time.

MR. MENNERICH: Would it be possible to pave a portion of that so that the part that's actually going to be used is paved?

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MR. HINES: Right now you're showing twenty-four truck parking spots which kind of expands across the site.

MR. DEPEW: Are you talking about the upper section where the storage is, you want that paved, or are you talking about the whole lower level?

MR. HINES: I believe we were referring to anywhere where vehicular traffic occurs on the site.

MR. DEPEW: Okay.

MR. HINES: Probably more so where the passenger type vehicle -- where you have the northern lot, you have the parking spaces 15 through 19 there with a handicap space.

MR. DEPEW: I'm just afraid the trucks will destroy the pavement on top, especially when it's cold and they're turning the wheels. I don't think it would last, to be honest with you. It actually would make the project very costly to pave the whole entire area.

CHAIRMAN EWASUTYN: I don't know, I think it works just the opposite. I think when the weather is warm and the asphalt is heated up

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and it's soft, the turning of the wheels does cut into the asphalt, but when the asphalt is cold it's, so to speak, as hard as concrete and it doesn't respond one way or another. So it's really just, you know, just the opposite effect.

Ken Mennerich?

MR. MENNERICH: Getting back to the question. I guess I would like to see it paved but only the parts that are going to be used. I mean if there's spaces here that you know you're not going to be using, that area doesn't have to be paved. Where the trucks are going to be operating and cars are going to be moving, I'd like to see it paved.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Is there an alternative to asphalt, like an oil and chip, to keep the dust down?

MR. HINES: There is. I mean you could put down some kind of a cold mix, asphalt or tar and chip material. You're not going to get the durability. If you're concerned about it breaking up, it may be worse.

MR. PROFACI: What is the cost

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comparison?

MR. HINES: Shooting from the hip, it's probably fifty percent less to use like a cold asphalt with a double surface treatment as opposed to a hot mix.

MR. PROFACI: And the durability of it?

MR. HINES: It's probably similar, fifty percent less. The life expectancy of that is less, especially under the trucks.

MR. PROFACI: What is planned now to be paved?

MR. LYNCH: Right now this darker portion. We have it outlined. Basically the customer parking area, that's going to have the most traffic throughout the day. Right now their operation, most of the spaces up here are for employee parking basically. They stay there throughout the day, take their trucks and leave and at the end of the day they come back and pick them up. There's not a whole lot of traffic there.

MR. PROFACI: What about in front of the other building?

MR. LYNCH: Like this area in here?

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MR. PROFACI: The front.

MR. LYNCH: Here?

MR. PROFACI: Yeah.

MR. LYNCH: It does have an existing paved surface on it right now, and I'm not really proposing any improvements to that. I think that's mostly going to serve as a maintenance area. There's not going to be a lot of traffic through there.

MR. PROFACI: Paul, how do you feel about an alternative such as the tar and chip?

MR. DEPEW: If the concern is to keep the dust down, is that the whole -- you know, in order for us to grow I need to do the improvements. I need it to be affordable also. We're not a huge company. I have to pay for everything as we go.

MR. PROFACI: Are you saying neither one?

MR. DEPEW: I'm saying if I have to I will. I prefer not to. I prefer to leave the top gravel, though.

CHAIRMAN EWASUTYN: Paul, again, this is always a very sensitive issue. I would assume

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-- why are you proposing to add another 30,000 gallon tank? If I follow the logic, you're looking to expand your business. In order to expand your business, if not today, tomorrow or the day after you'll be looking to put out more trucks to service your accounts. There's nothing wrong with that. This is the logic that's applied to all of this. We understand that a local businessman wants to do all these things, and it's a question as to -- you know, let's talk about what it is you want to do rather than saying I have ten trucks, you're proposing to have fifteen trucks, just so we have an understanding.

MR. DEPEW: Well, right now --

CHAIRMAN EWASUTYN: Maybe we ought to ask you to talk rather than having -- that always works better. Someone from Engineering Properties speaks and they are adding words to sort of soften your impact. We don't know what you really have in mind.

MR. DEPEW: Right now --

CHAIRMAN EWASUTYN: Your name is Paul what?

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MR. DEPEW: Depew.

CHAIRMAN EWASUTYN: Thank you. I don't know who he is. I don't.

MR. DEPEW: Last year propane was in shortage, and what we want to do is buy another 30,000 gallon tank. It allows me to have more gas and to better plan the deliveries. A 30,000 gallon tank only holds -- I can only put 24,000 gallons in there. That's only two tractor trailer loads. If I can increase it I'm able to better schedule my deliveries, and that's really what that's about.

As far as adding to the garage, I mean our garage right now is basically worthless to us. We can't pull a truck in, we can't really -- we're maximizing every inch we have there to the best ability.

The roof. To add, to fix things and to keep on improving things, we need to do it and we want to make the property look nice. I've been in the Town of Newburgh my whole life. We own property all over the place. We're just looking to make it nice. We want to be able to operate.

As far as adding more trucks, we

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actually own another site in Bloomingburg that we plan on moving some of the trucks there. So if anything, we're going to lose trucks at that site just so we can be cleaner and maximize it. We're trying to get closer to the customer base where we are. That's what we're trying to do. We're just trying to -- we're growing, we're trying to make things nice, but we also have to be able to afford what we're doing as we go.

CHAIRMAN EWASUTYN: Thank you. I didn't mean to put you out. It helps to understand.

MR. DEPEW: No doubt.

CHAIRMAN EWASUTYN: Did you finish?

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: I think keeping up with past practice we need to be consistent, so I'm for paving it.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: My question is the blacktop that's there now, in what condition is it?

MR. LYNCH: It's basically just in this area.

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MR. WARD: That's it. So basically where you're talking blacktop, it's going to be new blacktop no matter what?

MR. LYNCH: What we're proposing, yes.

MR. WARD: What we're trying to say is we've had projects down the road half blacktop and half sealed and everything else, but we're trying to -- how would you put it? It's a requirement for dust free and we're trying to help the situation, but there has to be a happy medium for where the trucks are going to be. Whether there's trucks there or not, we're trying to clean it up. It's a good appearance.

CHAIRMAN EWASUTYN: Anything further at this point?

MR. WARD: One more.

CHAIRMAN EWASUTYN: John Ward.

MR. WARD: And Paul, like Peterbuilt where 84 Lumber was, they had partial blacktop, partial coating, but there were parts that weren't, including the road going in. Being the trucks going in there, we emphasized it. It was a private road and they did it. We're trying to help but at the same time we understand the cost

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of it, too. Thank you.

MR. DEPEW: I understand.

CHAIRMAN EWASUTYN: We do have to circulate to the Orange County Planning Department -- Orange County DOT. You'll get a copy of those plans to Pat Hines' office and we'll circulate to them.

Again I'll poll the Board Members for a total count as to what they'd like to see, blacktopping or leave it as is I guess really is the question.

Cliff Browne?

MR. BROWNE: I'm in favor of the blacktop.

MR. SAMUELSON: Jay Samuelson, Engineering Properties. Can I add one comment to that? In regard to the blacktop, would you guys be willing to look at an option of maybe doing like an 18 or 25 -- 20 foot access road the propane trucks would utilize going through the site, where they come in from one side to load up with propane and go out, if we paved that section?

CHAIRMAN EWASUTYN: I think the issue

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isn't the access road servicing, it's just the storage of the vehicles and all.

MR. SAMUELSON: So you're more concerned about where they're parking and --

CHAIRMAN EWASUTYN: Just the whole dustless surface of the site.

I'll ask the Board Members.

MR. SAMUELSON: I just thought maybe that might be some sort of compromise we might be able to come to.

MR. MENNERICH: What I would like to see is what you mentioned, the access roads, but also pave where you know you're going to be having trucks. Don't pave everything, just where you're going to -- what you need.

MR. SAMUELSON: Got you. Thank you.

CHAIRMAN EWASUTYN: Cliff Browne, are you in favor of that?

MR. BROWNE: Yes, but I'd like to see it done -- a resubmittal.

CHAIRMAN EWASUTYN: Then we'll have to see a revised map.

Joe?

MR. PROFACI: I abstain.

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CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: Yes, but I'd like to see it revised.

CHAIRMAN EWASUTYN: Okay. John Ward?

MR. WARD: Basically I'd like to see it blacktopped where you park but I'd like an access road to minimize, at the same time make it uniform, not patch it. Thank you.

CHAIRMAN EWASUTYN: So part of your resubmission the next time around would be to show those details. I guess you should show a paving section also.

Any other questions or comments?

MR. HINES: No.

MR. MENNERICH: Concerning the screening of the propane tanks, would that have to be shown on the plan?

MR. HINES: They have to take a look at that.

MR. SAMUELSON: We'll discuss the options with Mr. Depew and come back with something.

CHAIRMAN EWASUTYN: Any other questions or comments, Paul?

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MR. DEPEW: No.

MR. BROWNE: John, the last time they were going -- did we address the view from the neighbors? I thought we talked about that before. Do you remember that?

MR. LYNCH: To the east here?

MR. BROWNE: The elevations and stuff. I think we talked about it.

CHAIRMAN EWASUTYN: Is there a natural treeline that separates the properties?

MR. LYNCH: There are some trees in this area on top of the hill there. Most of the treeline is on the neighboring property which won't be touched.

MR. BROWNE: I guess what I'm trying to get at is the viewshed from neighboring properties concerning the fencing around the tanks and what not, are we looking down into it from the top or are we looking at the side?

MR. HINES: The adjoining properties are elevated much higher.

MR. BROWNE: They look down onto this property?

MR. HINES: I think they are looking

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over it, not even down on it. They're looking way beyond it. The other side of 9W and the treeline there.

MR. BROWNE: So we're not so much concerned with the viewshed from behind it, more from surrounding?

MR. HINES: From the 9W corridor you'd see it. The houses that are up on -- the name of the road escapes me. Albany Post Road. Those houses are up, it's probably a 60 foot elevation difference or more.

MR. BROWNE: I thought that's what I was thinking. That's one of the reasons I said no on the hearing.

MR. HINES: There's a 20 foot elevation between the tank location and the property line just on this site.

MR. BROWNE: Okay.

MR. PROFACI: Paul, would you be willing to do the paving if it weren't enforced that it needed to be done immediately and we gave you some time and you posted a performance bond so that you would be able to have a little bit more time to do it?

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MR. DEPEW: Yes.

MR. PROFACI: Can we do that?

MR. DONNELLY: You can. You did something similar with one other project. One of the problems is the posting of the performance bond is generally with the Town Board, and the Town Attorney would require it to be a letter of credit. It's probably the same money it would cost to do it.

MR. PROFACI: All right.

MR. DONNELLY: If the Town would take an insurance company bond, the premium would be a percentage of that, but if it were a letter of credit or cash you would have to have the money anyway.

MR. PROFACI: Do we know which it would be?

MR. DONNELLY: I think the Town has always required letters of credit.

Do you know otherwise, Pat?

MR. HINES: I think we've had some bonds.

MR. DONNELLY: We can look at that.

CHAIRMAN EWASUTYN: You still have to

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come back with a revised plan to see what it is we may or may not consider. Thank you.

I'll move for a motion that we close the Planning Board meeting of the 4th of September.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich and a second by Joe Profaci. Roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 7:48 p.m.)

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

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

DATED: October 2, 2014