

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X  
In the Matter of

MO PROPERTIES  
(2006-32)

Southern Corner of NYS Route 9W & Devito Drive  
Section 20; Block 2; Lot 30.2  
B & R-3 Zones

----- X

PUBLIC HEARING  
THREE-LOT SUBDIVISION

Date: October 4, 2007  
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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

MO PROPERTIES

2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of the 4th of October. At this time we'll call the meeting to order with a roll call vote starting with Planning Board Member Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. O'DONNELL: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Myself present.

The Planning Board has experts that provide input and advise the Planning Board in reaching various SEQRA determinations. I ask that they introduce themselves now.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

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

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

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

MO PROPERTIES

3

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

MR. MUSSO: Mike Musso with HDR LMS, Wireless Communication Consultant.

CHAIRMAN EWASUTYN: Thank you.

At this time I'd like to turn the meeting over to Ed O'Donnell.

MR. O'DONNELL: Would you please rise and join me in saluting the flag of our country. (Pledge of Allegiance.)

MR. O'DONNELL: Please turn off all electronic communication devices.

CHAIRMAN EWASUTYN: Our first item of business this evening is MO Properties. It's a public hearing for a three-lot subdivision located on the southern corner of New York State Route 9W and Devito Drive. The zone is B and R-3. It will be represented by Charles Brown.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of

MO PROPERTIES

4

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of MO Properties for a three-lot subdivision on premises southern corner of New York State Route 9W and Devito Drive in the Town of Newburgh, designated on Town tax map as Section 20; Block 2; Lot 30.2. Said hearing will be held on the 4th day of October 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, Chairman, Planning Board Town of Newburgh. Dated September 11, 2007."

CHAIRMAN EWASUTYN: Dina Haines,  
Planning Board Secretary.

MS. HAINES: The public hearing notice was published in The Mid-Hudson Times on September 26th and in The Sentinel on September 28th. The applicant mailed out seventeen certified letters and thirteen were returned.

CHAIRMAN EWASUTYN: Thank you, Dina.

MO PROPERTIES

5

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

At this time I'd like to turn to Mike Donnelly, the Planning Board Attorney, to explain the point where we are in the review process now.

MR. DONNELLY: There are a number of items on the agenda this evening. The first item on the agenda, as you've been told, is the MO Properties subdivision. This item is on for a public hearing. The purpose of the public hearing is to enable the Planning Board, before it takes action on this proposal, to hear from the public to determine whether or not issues or concerns that have not yet been noted or discovered by the Planning Board or its consultants are brought to the Board's attention by you, the members of the public and neighbors to the project, that would enable the Planning Board to see if further work needs to be done before action can be taken on the proposal. After the applicant's representative has described the project the Planning Board Chairman will call on those who wish to address the Board. We would ask that if you could please stand up and move forward. That microphone is not active so we'd like you to move up to the front. If you

MO PROPERTIES

6

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

would state your name and your address, spelling your name for our Stenographer so we get it down correctly, and then address your comments to the Board. If you have questions that can be answered simply by either the applicant's representative or one of the consultants for the Town, the Chairman can ask that that question be answered by the consultant. I guess that's it.

CHAIRMAN EWASUTYN: Okay. At this point I'll turn the meeting over to Charles Brown, the representative for the applicant.

Mr. Brown.

MR. BROWN: Thank you, Mr. Chairman. This proposal is a three-lot subdivision of an existing nine-acre parcel. As it said in the notice, it's a split zone. The front portion fronting on 9W is in the B Zone, the rear is in the R-3.

The property presently contains two residences and one business. The business, the Blue Moon, fronts on 9W and the two residences are up in the back.

There are no improvements with this proposed subdivision. Its purpose is to

MO PROPERTIES

7

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

subdivide out the existing uses so that each one is on an individual lot.

This will create a four-acre parcel on the front in the B Zone, a half acre lot and existing residence that fronts off of Devito Drive, and the balance of four-and-a-half acres will contain the third residence. Thank you.

CHAIRMAN EWASUTYN: As Mr. Donnelly had said earlier, I would like to open the meeting up to the public. Is there anyone here this evening that has any questions, would you please raise your hand.

Ma'am.

MS. DeSANTIS: My name is Jacquelyn DeSantis, D-E-S-A-N-T-I-S, my address is 21 Linda Drive. My question is what is the exit for that second home? Is it still Devito Drive?

MR. BROWN: Yes.

MS. DeSANTIS: It is. Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: We received a letter in reference to the storage trailer to be

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

removed prior to signing the plats. For the record can someone please discuss that letter?

MR. BROWN: The letter is from?

CHAIRMAN EWASUTYN: (Handing.)

MR. BROWN: This is regarding actually the tree service where they're storing the tree equipment. It's a letter from my client to them that they have to remove the equipment, and they have agreed to that. The trailer has already been removed.

CHAIRMAN EWASUTYN: Fine. Thank you.

I'll turn to our consultants for their final comments. Pat Hines.

MR. HINES: We reviewed the project with regard to water and sewer issues on the site. Both of the existing residences, the single-family homes, will be connected to the Town's water system. The existing wells will be abandoned in accordance with applicable standards.

One new septic system is proposed. They both share a septic system now. That system meets the required regulations.

Our only outstanding comment on that



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

was the issue you just discussed regarding the tree cutting business occupying a portion of the commercial lot. As was discussed, that will have to be removed prior to any maps being signed.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: We reviewed these plans for lot layout and determined that the new lots are conforming to all zoning and subdivision regulations.

The only change in the plans from the last time we saw them was the addition of a fifty-foot buffer for the residential section as requested.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect.

MS. ARENT: My comment is the same as Bryant's, that during the last meeting in accordance with the buffer regulations I requested a buffer between the residential property and the commercial and they provided the buffer.

CHAIRMAN EWASUTYN: Comments from Planning Board Members. Frank Galli?

MO PROPERTIES

10

1  
2 MR. GALLI: No additional comment.  
3 MR. BROWNE: Nothing more.  
4 MR. MENNERICH: No questions.  
5 MR. O'DONNELL: Nothing.  
6 MR. PROFACI: Nothing, John.  
7 CHAIRMAN EWASUTYN: Will there be any  
8 additional comment from the public?  
9 (No response.)  
10 CHAIRMAN EWASUTYN: I'll move at this  
11 time to close the public hearing for the  
12 three-lot subdivision for MO Properties.  
13 MR. GALLI: So moved.  
14 MR. O'DONNELL: Second.  
15 CHAIRMAN EWASUTYN: I have a motion  
16 from Frank Galli. I have a second by Ed  
17 O'Donnell. Any discussion of the motion?  
18 (No response.)  
19 CHAIRMAN EWASUTYN: I'll move for a  
20 roll call vote starting with Frank Galli.  
21 MR. GALLI: Aye.  
22 MR. BROWNE: Aye.  
23 MR. MENNERICH: Aye.  
24 MR. O'DONNELL: Aye.  
25 MR. PROFACI: Aye.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this time I'll turn to Planning Board Attorney Mike Donnelly to give us conditions of approval for the three-lot subdivision.

MR. DONNELLY: A variance had been granted earlier. We'll include that as a continuing condition in the resolution. There will be a need for a common driveway easement and maintenance agreement to be reviewed by me before the plat can be signed. As Pat just mentioned, the plat will not be signed until the tree cutting business has been fully removed from the site. Lastly, there will be the requirement of the payment of a parkland fee for the new residential lot.

CHAIRMAN EWASUTYN: Thank you. Having heard conditions for final approval for the three-lot subdivision, I'll move for that motion.

MR. PROFACI: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Ed O'Donnell.

MO PROPERTIES

12

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. So  
carried. Thank you.

MR. BROWN: Thank you.

(Time noted: 7:10 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 15, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

- - - - - X

In the Matter of  
THE MARKET PLACE AT NEWBURGH  
(2004-54) (2007-35)

Route 300  
Section 60; Block 3; Lots 41.3,41.4,48,49.1,49.22 & 49.21  
Section 71; Block 4; Lots 7,9,10,11,12,13 & 14  
Section 71; Block 5; Lots 15 & 16  
Section 97; Block 3; Lots 13.3 & 20.3  
IB Zone

- - - - - X

SITE PLAN, ARCHITECTURAL REVIEW,  
FOUR-LOT SUBDIVISION & LOT LINE CHANGES

Date: October 4, 2007  
Time: 7:11 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
- EDWARD T. O'DONNELL, JR.
- FRANK S. GALLI
- JOSEPH PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- PATRICK HINES
- BRYANT COCKS
- KAREN ARENT
- KENNETH WERSTED
- MICHAEL MUSSO

APPLICANT'S REPRESENTATIVE: ROBERT WILDER

- - - - - X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The next item of business we have is The Market Place. It's before us this evening for site plan, ARB and a four-lot subdivision and lot line change. The subject property is located on Route 300, it's in an IB Zone and it's being represented by Robert Wilder.

MR. BAINLARDI: Mr. Wilder is delayed in traffic. I'm John Bainlardi.

CHAIRMAN EWASUTYN: Thank you. Would you come forward. We're going to be discussing first the site plan for The Market Place.

Let's start with the lifestyle center. If you have some renderings that show the lifestyle center.

MR. SILVERMAN: Mr. Chairman, Members of the Board, I'm Sol Silverman, I'm the architect for the project. What we've brought to you tonight, the developer presents The Village at The Market Place. What we have endeavored to do -- there is a series of views. You people I believe all have the reductions of these same four renderings. These are different views of the center.

1  
2 To alert the Board and inform them as  
3 to what our feelings are on the general design  
4 and design principles of this, we have created,  
5 and we believe this is what is right for  
6 Newburgh, is the idea of a village. It's a  
7 village that is super pedestrian friendly,  
8 catering to the shopper, allowing for a village  
9 square and allowing for a village green area that  
10 we can have mime players, there will be music,  
11 there will be a sense of planting, there will be  
12 a mixture of and a combination of sidewalks that  
13 are decorative sidewalks and concrete utilitarian  
14 sidewalks. We've tried to show this by way of  
15 illustration. We of course are working on all  
16 the individual elements as the leasing  
17 progresses. We felt that the spirit -- we  
18 deliberately did it as a 3D. These are different  
19 views. This is the view looking from the J.C.  
20 Penney end towards the village square section.  
21 This view is coming in at the entranceway from  
22 the village square looking back down towards  
23 Penneys. This is what the street scape looks  
24 like. This view is the view that the entrance  
25 shopper will have. This is taken from Route 300,



1  
2 from Union Avenue, looking down and through the  
3 center to allow the viewpoints to be conducive to  
4 the -- let's call it the invitation to the  
5 shoppers and to all the residents of Newburgh.  
6 We feel we've captured the spirit of these. This  
7 view is now at the entrance road looking back  
8 towards 300. We've done it on the basis of these  
9 are eye level. All along the top these are eye  
10 level, what you will see from driving your car or  
11 walking the streets or along the sidewalks.  
12 These are elevated views just to give you a  
13 better idea as to what the complexity is that's  
14 involved in the shopping center itself.

15 We also have brought with us basically  
16 a board which relates to the typical facades and  
17 the materials that will be utilized. These are  
18 sample facades where we're using seven or eight  
19 repetitive elements that we're changing material,  
20 changing textures. All the materials will be  
21 maintenance-free materials, combinations of a  
22 hardy plank, combinations of stucco, of shingles.  
23 They are geared for a maintenance-free operation  
24 and installation. These are just two pictorial  
25 sections of areas within the center. We've

1  
2 advanced it also to show the Board that we're  
3 involved in the design of the rear of the stores  
4 as well. Even though they are purely utilitarian  
5 functions, the quantity of landscaping, screening  
6 of loading areas with a combination of some walls  
7 and dense landscaping, and then the utilization  
8 of the same thing, the same facade type materials  
9 so that it never looks like the back of a  
10 shopping center. We believe it is a complete  
11 village.

12 In the general planning of the village  
13 center there are many fronts and many rears and  
14 they're all intermixed. That you can see --  
15 that's evident from the general plan itself where  
16 although this is the rear of the buildings, on  
17 this particular side along the main entrance road  
18 these are all store fronts. They're double  
19 loaded store fronts to allow the street scape to  
20 expand.

21 The last board relates to details of  
22 the individual elements that we're utilizing. We  
23 took two samples and blew them up to show the  
24 types of materials that are being utilized  
25 throughout.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I think what we're trying to do more than anything else is create this environment. I think it's what the Board wants, I think it's what the shopper wants. We certainly know it's what the industry wants. We present this to you. We're very proud of it. The developer is very proud of it. The quality and the workmanship that will ensue is of the first class that can be done.

I open the floor to the Board for any questions that you may ask.

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

MR. GALLI: Not yet.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Not at this point, John.

Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I don't have any questions. I do feel that what you're presenting is in line with what was in the D.E.I.S.

MR. SILVERMAN: Thank you.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: I have no comments.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing yet.

CHAIRMAN EWASUTYN: What is the approximate square footage of the lifestyle center?

MR. SILVERMAN: It will be somewhere between 155 and 170,000 feet.

CHAIRMAN EWASUTYN: Would you walk us through the site plan now to locate and give us the size of the individual buildings and who your proposed tenant may be, if any, for those buildings.

MR. SILVERMAN: On the individual buildings, here we've created a main street and a village center. This will serve as a relief point, all right. That's what is obvious from this first board that I put up. The idea is to have an open space area and the village green. The street itself, the main street, takes off from that vantage point.

These tenant spaces, I can't release right now the names of the tenants but obviously for the type of center and the money being expended, this is not a "small strip mall" that's

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

along some highway somewhere.

CHAIRMAN EWASUTYN: You're also proposing that -- you identified that there would be a building A, B, C, D and E, and you've given us a gross leasable area for those buildings.

MR. SILVERMAN: That's correct.

CHAIRMAN EWASUTYN: And for everyone here this evening, can you point to those buildings, the square footage, and if you have tenants for any of those other additional.

MR. SILVERMAN: John, would you like to address that?

MR. BAINLARDI: Building A which is the building immediately adjacent to the lifestyle center, that building is approximately 104,000 square feet. We're currently in discussions with a department store, J.C. Penney.

CHAIRMAN EWASUTYN: Can you remove that easel so you have more room to stand back as you locate it? Thank you. You seem to be limited in space there.

MR. BAINLARDI: The building adjacent to the department store building is approximately 90,000 square feet. We do not have any set

1  
2 tenant for that building although it's in -- that  
3 building could be broken up into more than one  
4 tenant. We've been in talks with a sports  
5 retailer, a sports equipment retailer which would  
6 -- their prototype is approximately 45,000 square  
7 feet which would leave us about another 25 to  
8 30,000 square feet in between.

9           This box here is 30,000 square feet.  
10 That's proposed at the current time to be a Best  
11 Buy.

12           The box here is approximately  
13 150,000 square feet, and this is proposed to be a  
14 Cosco wholesale club.

15           CHAIRMAN EWASUTYN: And where will the  
16 gasoline station be located on that facility?

17           MR. BAINLARDI: The gasoline station is  
18 located in this vicinity, towards the rear of the  
19 property and adjacent to the buildings back here  
20 in the rear.

21           These two buildings in the back,  
22 currently we do not have tenants. We're talking  
23 to a number of different retailers. We're not  
24 certain at this point in time who the tenants  
25 will be for this area.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: And the combined total square footage of these buildings and the lifestyle center for this site?

MR. BAINLARDI: The total square footage is approximately 775,000 square feet at this point.

CHAIRMAN EWASUTYN: Thank you.

Mike Donnelly, would you bring the Board along as to where we are in the process right now?

MR. DONNELLY: Yes. There are several components that are within your review authority of the site plan, the Architectural Review Board approval and there's also an application in the early stages for a subdivision, and that is the carving out of certain of the land shown on the site plan for actual sale to tenants as distinct from leasing to them. That will require certain variances to be granted.

You had conducted a full environmental review and you have a Findings Statement, and you've had a number of memos from your various consultants.

Under your Zoning Ordinance you have

1  
2 the option, and you've frequently used it in  
3 large scale projects that require the approval of  
4 a lot of other agencies, to break the site plan  
5 approval into two pieces, the first being a  
6 preliminary approval and then later a final  
7 approval. The Ordinance language reads as  
8 follows, under the heading of preliminary site  
9 plan review: "If a particular application is, in  
10 the opinion of the Planning Board, of sufficient  
11 complexity to warrant review in stages, the  
12 Planning Board may defer the submission of  
13 certain requirements and the detailed engineering  
14 work, rendering a preliminary decision on the  
15 basis of a less than complete submission." The  
16 rationale is that because a number of other  
17 agencies have to look at the plans, each of which  
18 may impose changes and additional requirements,  
19 that it is more useful of your time and more  
20 efficient for those other agencies that you allow  
21 them to have a chance to begin their review and  
22 then bring all the final engineering drawings and  
23 requirements up to snuff after they have signed  
24 off and proposed any changes that they would  
25 like. It's a process you've used on other



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

projects and it's one that your consultants have recommended to you here and I think you're inclined to follow.

The memos that you have from your various consultants with the items listed as needing to be resolved reached the conclusion that this is ready for a preliminary site plan approval by you. I have prepared a resolution that we spent a little bit of time going over in the work session that would carry forth the future items that need to be tended to, and when you're ready I can go down through that resolution, at least in bold strokes, and talk about what it must include.

CHAIRMAN EWASUTYN: Do the Planning Board Members feel like they're ready at this point to go through that review?

MR. GALLI: Mm'hm'.

MR. BROWNE: Yes.

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Mr. Donnelly, please.

MR. DONNELLY: The first four pages of the resolution recites the history and a

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

description of the project, and I'm not going to repeat that here.

On page 5 the guts of the resolution appear. The first four or five and now six conditions relate to the requirement that the final site plan approval must address the outstanding issues raised in the various memos and reports of your consultants as well as the Town Engineer and including Jerry Canfield, the Code Compliance Supervisor. They run the gamut of issues from drainage to fire protection, and they're more in the nature of follow-ups and details that need to be provided. So I'm suggesting that the resolution recite that before final approval is granted all of those issues in those memos, and indeed in the future memos that may come along as we continue to review, are all addressed.

There are a number of specific items that are important enough, and although the list is not exclusive, that in condition number 6 we list as being required to be incorporated into the final plans. Those relate to the drainage plans for the traffic improvements, the culvert

1  
2 design that will have to satisfy the Army Corp of  
3 Engineers and the DEC, the various  
4 recommendations from the report of William  
5 Shuster, the ecology expert that was retained by  
6 the Town for the environmental review, a cohesive  
7 conceptual landscape plan, finalization of the  
8 entrance connection improvements, a method of  
9 allowing irrigation in the parking lots by  
10 channeling drainage into various of the planter  
11 islands and a satisfactory concept architecture,  
12 some of which you've seen this evening.

13           What I think you need to announce here  
14 is because the visual impacts of the project are  
15 and long have been a central part of your SEQRA  
16 analysis; and although the ARB approval and site  
17 plan approval are technically separate; and  
18 further, although ARB will be ongoing as each  
19 store presents its particular design and  
20 landscaping, at the same time as you grant final  
21 approval, that is as a condition of granting  
22 final approval, a somewhat beefed up,  
23 satisfactory architectural rendering of the  
24 common elements of the site and a concept plan  
25 for the stores along with a landscaping plan in

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

concept for the stores will have to be presented to you satisfactory to your Landscape Design Consultant and satisfactory to you as a Board. Those are carried forth in conditions 6 and 7.

In condition 8 we list all of the other agency approvals that will be required. They include approvals from the Newburgh Town Board, the Town Engineer, Water Department, Building Inspector's office, of course the Architectural Review Board, the City of Newburgh for sewer flows, the New York State Department of Health, the New York State Department of Environmental Conservation, the New York State Department of Transportation, the New York Thruway Authority and the U.S. Army Corp of Engineers.

Because the applicant is going to have to make application to each of those departments after preliminary approval is granted, we need to find a method to keep the Board and the consultants in the loop as those applications are being made and perhaps as the plans change. Condition number 9 requires that the applicant copy the Planning Board and the consultants on all of the submissions made to each of those

1  
2 agencies including the plan set. If the plan set  
3 is different than the plan set that we currently  
4 have, and in many cases it will be because it  
5 will begin to contain more details, then before  
6 that plan set is signed it needs to be reviewed  
7 by the Consultants so that we know where we are  
8 and in order that the Town Consultants may  
9 correspond or have contact with those agencies so  
10 they fully understand the Planning Board's  
11 position in the matter.

12 We have a section talking about the  
13 signs. No signs are being approved at this time.  
14 It will ultimately be a combined Planning Board  
15 and Building Inspector's office approval but we  
16 will need to see as the final -- as part of the  
17 final site plan submission a cohesive sign design  
18 plan that has a style and a theme that works for  
19 the project at large, obviously giving  
20 appropriate deference to the national chains that  
21 may come in terms of their trademarks and  
22 appearance. We need to make sure there's a  
23 proper allocation of the sign area for the entire  
24 site that goes to the stores. If there's  
25 variances that are going to be required, they

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

should be obtained before final approval. There should be a complete and final signage for the entranceway and the common areas that will not be changed by virtue of individual tenants being located.

We continue on talking about the requirement that landscaping maintenance is going to be an ongoing issue and that the turf and planting areas within the site will be subject to a comprehensive maintenance plan, the provisions of which will need to be presented to the Board and incorporated into any final approval.

The resolution notes in condition 14 the requirement of ongoing parking lot maintenance per the Code of the Town of Newburgh.

We've asked the applicant and the applicant has agreed that they will petition the Town Board under a section of the Vehicle and Traffic Law to allow the Town of Newburgh Police Department and the parking enforcement personnel to enforce Vehicle and Traffic Law violations within what would normally be viewed as private property. That would include obviously speeding, stop signs, handicap parking and the like. The

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

language had included the Code Compliance office but that was inappropriate and that has been removed.

We had talked, and we had done this in other sites, about the need to have a single entity for enforcement of Code provisions. The mall or the shopping center itself will have a number of tenants, and with or without a subdivision we need to insist that the owner of the mall, at least in the first instance, will be the single agent for the purpose of Code enforcement so that if Jerry Canfield's office needs to enforce some provision, that we're not hearing from the owner oh that's the responsibility of store A and the store A manager says oh no that was the owner's responsibility. The owner can shift that responsibility to any of its stores any way it sees fit in the leases but as between the Town and The Market Place the owner will be responsible for Code enforcement issues. That's carried forth in the resolution.

There's then a section on traffic that requires that the final plans -- this was not in the earlier draft but we added this during the

1  
2 discussion. The final plans for all traffic  
3 improvements shown on the site plan, the  
4 D.E.I.S., the F.E.I.S. and the SEQRA Findings  
5 Statement, including those both on site and off  
6 site, shall be incorporated into the final site  
7 plans. The final site plan approval will not be  
8 granted until all of those traffic issues and the  
9 approval of those other agencies are finalized.  
10 Of course on an ongoing basis the applicant will  
11 need to complete all of the traffic improvements  
12 that are shown on the plans as its obligation to  
13 complete.

14           There are several requirements  
15 regarding improvements to certain intersections  
16 and ongoing traffic monitoring. They are covered  
17 in condition 17 and 18. Specifically there is  
18 the need for the applicant, who has offered to  
19 share in a study of the intersection of Route 52  
20 and Route 300 as well as to share in, on a fair  
21 share basis, toward making improvements toward  
22 that intersection. There is a requirement in  
23 condition 17 including a payment of up \$50,000 to  
24 accomplish that. Moreover, in condition 18 the  
25 applicant is required to post the sum of \$30,000



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

with the Town that the Town will utilize to do ongoing post-construction traffic studies in order to tweak or remedy any problems in the traffic flows in the vicinity of the site based upon experience, and there's details from the E.I.S. and the Findings Statement as to the timing and the parameters of that study as well as the improvements that can be made.

We talked at great length, based upon the experience of other shopping centers in the area, about the need to anticipate what might happen in certain holiday seasons, like the day after Thanksgiving when shopping malls -- and the Christmas season or other holidays when shopping malls have extraordinary traffic. At times there's going to be the need perhaps, at least based upon the experience of other malls, for some extraordinary measures, meaning not the normal timing of the lights as they work on the normal peak hours. That is an ongoing issue that will begin with the submission, as part of the final site plan, of a transportation management plan. Based upon the experience in the years of operation, that plan will be tweaked. If all

1  
2 works well there won't be any need to implement  
3 that plan. If from experience the Town finds  
4 that on certain peak shopping days there are  
5 difficulties, then there are a variety of  
6 measures that can be utilized including the  
7 utilization, at the developer's expense, of the  
8 Town of Newburgh Police to direct traffic by hand  
9 at entranceways or whatever else seems to be  
10 appropriate. The requirement of that plan on an  
11 ongoing basis is set forth in that condition.

12 In condition 20 and some of the ones  
13 that follow we make clear that the conditions and  
14 mitigation measures set forth in the SEQRA  
15 Findings Statement are conditions of this  
16 approval and that all of those mitigation  
17 measures and proposals need to be incorporated  
18 into the final plan set. While the list is not  
19 all inclusive, we have listed in bolded fashion  
20 in condition number 21, the bullets appearing on  
21 page 14, a number of specific conditions that  
22 will have to be incorporated into the plans and  
23 the requirement of there being an undertaking or  
24 developer's agreement in which these things are  
25 set forth. For instance, the requirement of the

1  
2 hiring of a site inspector or site inspectors at  
3 the developer's expense to monitor the  
4 construction progress to make sure that there is  
5 compliance; the monitoring protocol, and we'll  
6 talk more about this in a moment, for the wells  
7 and the residential houses in the vicinity of the  
8 project to cover those homeowners in the event  
9 that there might possibly be any damage from  
10 blasting on the site; landscaping maintenance;  
11 pedestrian crosswalks; and signals at the  
12 intersections that are required to be installed;  
13 fair share contributions, et cetera.

14           Next it's referred to briefly as the  
15 requirement of a groundwater protection plan, and  
16 there is a lengthy section of the resolution  
17 carried largely from the Findings Statement that  
18 requires that a well monitoring and testing  
19 protocol for the wells within 500 feet of the  
20 areas of proposed blasting be identified, that  
21 those homes and those wells be pre-inspected  
22 before blasting in order to ensure that any  
23 damage done can be readily identified. In terms  
24 of the wells, the applicant is required to have  
25 an alternative water supply in place in the

1  
2 general vicinity so that in the event that a well  
3 was damaged as a result of blasting, that that  
4 homeowner could be promptly connected to that  
5 supply. There are a great number of requirements  
6 here in terms of well logging, well driller  
7 monitoring, and of course all of the blasting and  
8 pre-blasting tests and protocols that are part of  
9 the ordinance. Ultimately in the event, and the  
10 Environmental Impact Statement determined that  
11 the event is a highly unlikely one but in the  
12 abundance of caution these measures have been put  
13 in, that if there are wells that are damaged, the  
14 developer will be required to develop an  
15 alternative water supply, either on or off site,  
16 to remedy those. In the event that that is not a  
17 feasible method, then the developer would be  
18 required to pay for the cost to extend the  
19 municipal water system into the vicinity. There  
20 are various bonding requirements in the protocol  
21 as well.

22           There's then section 23 regarding  
23 future modifications. While everyone  
24 acknowledges the likelihood that as different  
25 stores decide to sign leases and have their own

1  
2 individual requirements, that the particular  
3 layout of this site might change. Certain  
4 parameters were set as to what changes may be  
5 allowed at varying levels of formality. It was  
6 important to the Planning Board and as put here  
7 that the lifestyle center, which has been  
8 promoted and understood to be an essential  
9 element of the proposal, be included. And  
10 although its exact size, although currently  
11 proposed I think Sol said 150,000 to 175,000  
12 square feet, may not shrink below 100,000 without  
13 there being amended approval and the  
14 incorporation of other appropriate amenities into  
15 the plan to meet the objectives that the  
16 lifestyle center was designed to achieve for the  
17 Town.

18           The lifestyle center must be built  
19 before there is 450,000 square feet of non-  
20 lifestyle center space ready for leasing. So  
21 that the lifestyle center will be built and  
22 operational before the mall -- before the  
23 shopping center is completed.

24           There are some more particulars about  
25 architecture, color textures, guidelines for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

landscaping.

There are a number of requirements relating to financial security, some of them from the language that has been presented to be modified but the basic outline is this: That this project, being a large one that may not easily fit the structure of the financial security that's set forth in the ordinance, needs to have a financial security structure that is satisfactory for the Town and meets the reasonable expectations of the developer. For instance, first and foremost is the Town will want to have, in addition to the traditional performance bonding, a restoration bond that would enable the Town in the event -- for instance, a contractor was doing site clearing, walks off the job and the developer has not made the site secure and safe, that that money could be used to stabilize the site and take whatever measures are needed to prevent erosion or the flowing of dirt or earth. The performance bond wouldn't permit that, a restoration bond would. There are a number of issues that relate to the timing of the posting of the financial security

1  
2 because the construction of this project will  
3 take a substantial period of time. Most of those  
4 issues are best handled I think in a developer's  
5 agreement or some negotiations with the Town  
6 Board because they fall within the jurisdiction  
7 of that Board. The essential requirement is that  
8 adequate and appropriate financial security will  
9 be required for both restoration and performance  
10 purposes to the satisfaction of the Town Board.  
11 Certainly landscape security is one of those.  
12 The stormwater improvement security is another.  
13 There will be a water main extension and a sewer  
14 main extension. The construction needs to be  
15 secured. I had a section on Town road security  
16 and I need to correct this language because I  
17 think it properly referred to, and Pat mentioned  
18 it, not so much to the creation of a Town road  
19 but the securing that's necessary to allow work  
20 to be done on Town roads to make sure they are  
21 put back in the condition they need to be after  
22 that work is done.

23                   There will be certain offers of  
24 dedication that have to be delivered to the Town.  
25 They'll be reviewed by the Town Attorney as well.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

We have limitations on construction of anything that's not shown on the plans.

We have our typical section that restricts the outdoor storage and sales of materials. I don't know whether there's any of the stores that typically might engage in that but those conditions are set forth and are the standard ones that we have applied to other shopping centers within recent years.

The intent of the resolution is to allow, on this basis and with these caveats, the applicant to move forward to begin to pursue its approvals from other agencies. There will of course be changes to the plans imposed by those agencies. It will continue to be reviewed by this Board. When all of that is in place you will be in a position to then review and consider granting final approval. At that time I think ARB should be well on its way, and at least on a concept basis you should be in a position to take action on that. Hopefully in that same time period all of the issues, not just with the other governmental agencies outside of Newburgh's boundaries but the agencies that need to be



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pinned down to the Town Board, are put in place as well so that there are not any loose ends when this matter comes back to you for that formal action.

I think that covers all of the issues. We of course incorporate by reference all of the requirements of the D.E.I.S., the F E.I.S. and the Findings Statement. I think maybe we'll even attach a copy of the Findings Statement to the resolution so that they travel together.

I believe that covers all of the issues that your consultants and you have brought to my attention to incorporate into the resolution. There are some additional language tweaking that I'll need to work on. Karen has some suggestions already. I think the substance of what we discussed is in what I just outlined and the particular language can come after you vote on it.

CHAIRMAN EWASUTYN: Thank you. Having reviewed the resolution for preliminary site plan right now with Mike Donnelly, I'll turn to the Planning Board Members for their comments. Frank Galli?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. GALLI: No additional comment.

MR. BROWNE: I'm good with it. Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: One question. The last under the general conditions concerns the final sign off. That would not occur until after there has been a final approval vote by the Board; right?

MR. DONNELLY: What number or what page?

MR. MENNERICH: Pages 25 and 26.

MR. DONNELLY: Yes. Yes. That's -- yes. I'll make that clear. I'll simply say, instead of this approval, final approval shall be conditioned upon the applicant submitting so that we'll make it clear that's referencing final approval.

MR. MENNERICH: And to get that final approval they have to come back before the Planning Board; correct?

MR. DONNELLY: Yes.

MR. MENNERICH: Thank you.

CHAIRMAN EWASUTYN: Ed O'Donnell?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. O'DONNELL: Just a point about preliminary approval. Assuming that that gets achieved tonight, that does not give the developer any rights whatsoever in starting the development of this property?

MR. DONNELLY: No site work. No work may be done based upon the preliminary.

MR. O'DONNELL: What I'd also like to do is ask all the smart guys what they think, starting with you Pat.

MR. HINES: We've reviewed the plans with regard to soil erosion control, the grading plans, stormwater management facilities on the site, water, sewer. I believe the plans are in a condition now that preliminary approval could be granted. There's work to be done yet, technical details identified. Our latest memo is dated September 24th. That was a memo for a work session that identified additional items, clarifications and such that need to be developed as the project moves forward. There's additional work on the water system. They are right now developing a model for the water system. They are finalizing plans that will need to be

1  
2 submitted to the Health Department. We're down  
3 to very technical details. Stationing of the  
4 water plants, engineering details for each valve,  
5 fittings, et cetera need to be developed.  
6 Profiles will need to be -- the profiles that are  
7 done right now that show sewer, drainage and  
8 water, they will need to be combined together to  
9 make sure there are no conflicts. Now is the  
10 appropriate time to do that. Had they been done  
11 earlier they would have been through so many sets  
12 of revisions it would have been useless  
13 engineering work. With the preliminary approval  
14 they'll be able to do that more technical  
15 engineering with a level of comfort defined in  
16 the plans.

17 We heard from Dr. Shuster, the Town's  
18 consultant for the ecological matters.  
19 Unfortunately I know the Board just received it  
20 tonight. I received it today. There were some  
21 issues regarding the potential presence of a  
22 State listed threatened species of sedge.  
23 Specimens of that were obtained by Dr. Shuster  
24 and those were submitted to the Brooklyn  
25 Botanical Laboratory to a person -- a Dr. Moore

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

who I guess he's the sedge expert who has characterized or identified those. It is their opinion that it is not the endangered sedge. That was an issue that was hanging out there. So it is not the protected sedge.

The issue regarding the potential for any Indiana Bats were discussed during the D.E.I.S. and those were addressed in Mr. Shuster's letter. There were conditions about when the site could be cleared to eliminate those. But I think the applicant, needing a Federal permit from the Army Corp of Engineers, knew they were going to have to address that also. An Indiana Bat study was done. None of those species were identified. That report has been submitted. Some forty-eight individual bats were caught of four different species, none of which are the protected species.

There was additional sampling of the site for the potential presence of protected salamander species. Dr. Shuster identifies the actions they took to see if those were on the site. No State threatened or endangered species of those amphibians were identified during

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

numerous field surveys during the Final Environmental Impact Statement, the Draft Environmental Impact Statement and some additional studies that were undertaken by the applicant.

There was another species of plant, a Beaked Agrimony, the potential for that to be on the site. Numerous field reviews and samples of that were collected, reviewed by Dr. Shuster and Dr. Moore, and it was determined not to be the threatened species. So I think those issues have been re-studied and re-evaluated and Dr. Shuster's latest memo to me puts that issue to bed.

The DEC has provided a waiver for the five-acre disturbance limit required under the general permit for construction. I also just received a copy of that yesterday or today. So that's in place.

We have been working on the soil erosion, sediment control and stormwater plans. They are in order at this time as evidenced by the DEC's waiver. The DEC will have to issue as one of its permits the permit for the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

construction activities.

We stated in our letter that any modifications to the plans required by those other agencies must also be submitted to the Planning Board and its consultants for their review. We want to be copied on all of that so we know what the other agencies are reviewing.

We have a comment regarding some drainage along Route 52 that's being coordinated right now with the DOT and their review of those improvements which we will continue to monitor.

We commented on the blasting protocol. The distance and seismic monitoring needs to be increased in compliance with the Findings Statement.

So there's work to be done but I think the plans are in shape technically and engineering wise that a preliminary approval would be in order so that they can develop their final plans.

MR. O'DONNELL: Thank you.  
How about you, Bryant?

MR. COCKS: Yes. This project has been around since 2004 and in that time it's been

1  
2 through several revisions. It came before the  
3 Planning Board and we've made comments regarding  
4 lot layout, where the buildings are placed, the  
5 viewsheds from Route 52, Route 300 and also 84.  
6 The applicant has addressed all of our comments  
7 regarding these. He's also added a ton more  
8 landscaping as shown by all the trees which are  
9 the dark circles on the plans. He's provided a  
10 boulevard entrance as requested and a lot more  
11 pedestrian amenities.

12 Throughout this process, including the  
13 environmental review process, we looked at this,  
14 it's been through several revisions. We feel all  
15 the comments up to this point have been  
16 addressed. Now it's going to get to the  
17 technical engineering comments. As Pat said,  
18 this is just a preliminary approval. This is  
19 basically just so we can send it out to all the  
20 different agencies and get their comments and  
21 then whatever revisions need to be made, they'll  
22 be coming back before the Planning Board so we  
23 can also approve it.

24 MR. O'DONNELL: Thanks. Karen?

25 MS. ARENT: I reviewed the project with



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

respect to visual impacts, buffers, architectural review and landscaping. We're still reviewing the project. I still have about four pages of comments that need to be satisfied, but this can be worked on before final approval. In my opinion the project is ready for a preliminary approval.

MR. O'DONNELL: Do we have somebody talking about traffic?

MR. WERSTED: Glad I came today. Regarding the noise barriers, there's two specifications, two types of products that are offered by the manufacturer, one is a light noise wall and the other is a heavy noise wall. The product STS-32 heavy wall needs to be specified and used on the project to meet the requirements of the density to attenuate noise, so we note that.

The other comments that we'll have will be regarding signage and striping on site as well as the review of the internal traffic signal that's being proposed.

All of our major issues have been addressed regarding the site plan being ready for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

preliminary.

MR. O'DONNELL: Thanks. I want to thank all of you. I think you've done a nice job and I appreciate it. We have a lot of work to go, so stay on your toes.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm good, John.

CHAIRMAN EWASUTYN: Having had the opportunity to review the resolution for preliminary site plan, having heard the reviews coming from our consultants, our Drainage Consultant, our Planning Consultant, our Landscape Architect and our Traffic Consultant, having heard from the Planning Board Members, at this point then I'll move for a motion to grant preliminary site plan approval for the Wilder, Balter Partners Market Place.

MR. O'DONNELL: So moved.

MR. GALLI: Second.

MR. MENNERICH: Subject to the resolution.

CHAIRMAN EWASUTYN: Subject to the resolution, correct.

I have a motion by Ed O'Donnell. I

1  
2 have a second by Frank Galli. Any discussion of  
3 the motion?

4 (No response.)  
5 CHAIRMAN EWASUTYN: I'll move for a  
6 roll call vote starting with Frank Galli.

7 MR. GALLI: Aye.  
8 MR. BROWNE: Aye.  
9 MR. MENNERICH: Aye.  
10 MR. O'DONNELL: Aye.  
11 MR. PROFACI: Aye.

12 CHAIRMAN EWASUTYN: Myself yes. So  
13 carried.

14 Mr. Donnelly, we discussed that before  
15 we would grant final site plan approval subject  
16 to all of the conditions that we just discussed,  
17 that the ARB would first be acted upon. Would  
18 you review that one more time?

19 MR. DONNELLY: Yes. It is somewhat  
20 unwieldy because there is no one, single final  
21 site plan approval. There will be a first final  
22 site plan approval which will be much of the site  
23 plan, but it is inevitable to me that over time  
24 as users are found for the buildings there will  
25 be further amended site plan approvals that

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

relate to each of the stores as they come forward. If I'm wrong and we do it all at once, that's easy.

What needs to be done is before or as part of that first final site plan approval, an Architectural Review Board approval for all of the overall unchanging common elements will have to be granted, and in addition a concept architectural plan for all of the buildings in both the lifestyle center and the big boxes that set broad concept parameters of architectural materials and themes as well as landscaping all be approved by you. I don't think it's appropriate that you put off any kind of architectural review until we have the first store, I think it's too important, as specific a level as possible leaving room for concept for future amendments that will be included as part of your final site plan review. A lot of that has been shown to you already. You've seen some of it tonight, what amounts to a current proposed theme for the lifestyle center and various elevations and perspectives of how it will look from different locations. That will need to be

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

finalized with more detail including color schemes, style, choice of materials, landscaping, lighting, so on and so forth at the time of your initial final site plan approval.

CHAIRMAN EWASUTYN: Thank you. And the last item of discussion this evening is the four-lot subdivision and lot line change proposed for The Market Place at Newburgh. Are you prepared to put up maps?

MR. BAINLARDI: We don't have that map with us.

CHAIRMAN EWASUTYN: You've circulated maps. At this point, Bryant Cocks, Planning Consultant, do you have a set of maps that you could put up so we can go through them, please?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: Bryant, if you would take the opportunity to come up to the easel to present to the applicant what you feel is necessary for the Board to give consideration at a later date to this proposed subdivision before it would be referred on to the Zoning Board of Appeals.

MR. COCKS: The applicant came with

1  
2 this four-lot subdivision. This is the overall  
3 surveyed site plan. Right now they just  
4 estimated the lines of where the lot lines are  
5 going to be. To complete the submission they're  
6 going to have to draw out metes and bounds which  
7 is the exact locations surveyed out of each of  
8 these lot lines. They're also going to have to  
9 add in building envelopes for each separate lot.  
10 This is going to be the lifestyle center over  
11 here, this is going to be Cosco and this is going  
12 to be approximately J.C. Penney. So once they  
13 put the buildings on here they can also show the  
14 setbacks and then we can determine what variances  
15 are going to be needed and refer them to the  
16 Zoning Board.

17 CHAIRMAN EWASUTYN: Okay. Any comments  
18 from Mr. Wilder, Mr. Bainlardi in reference to  
19 this?

20 MR. BAINLARDI: We're aware of the  
21 requirements and we're proceeding to implement  
22 them onto the plan.

23 CHAIRMAN EWASUTYN: Pat Hines, Drainage  
24 Consultant, would you like to add anything?

25 MR. HINES: We have some similar

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

comments. There's an issue regarding the disposition or the abandonment of that portion of Brookside Avenue, how that's going to be handled. I know that's being addressed at the Town Board level.

There's a thirty-foot wide easement existing on the site that needs to be extinguished and relocated. I believe they're working towards that.

There's the transfer of property from the State of New York or the Thruway Authority, I'm not sure of the actual owner. That will need to be undertaken as part of the subdivision process.

As Bryant mentioned, metes and bounds for the internal lot lines will be required.

I discussed with the Planning Board at work session the disposition of the three lots that are not utilized in this project that are now owned by the applicant or some entity controlled by the applicant. The final disposition of those three lots, they currently have buildings shown on the demolition plan and they're going to remain as three lots outside the

1  
2 subdivision right now. We discussed at work  
3 session those are going to be addressed during  
4 the subdivision process. I believe the best  
5 method would be to combine them. They can stay  
6 outside the project and stay as residential lots,  
7 that's fine, but I think they should be  
8 addressed.

9 Then the disposition of certain pieces  
10 of property by the Town Board on Meadow Avenue in  
11 the vicinity of Route 52 is also outstanding and  
12 being worked on with the Town Board.

13 Those are our comments regarding the  
14 subdivision.

15 CHAIRMAN EWASUTYN: Thank you, Pat  
16 Hines.

17 Karen Arent, do you have anything to  
18 add?

19 MS. ARENT: No.

20 CHAIRMAN EWASUTYN: Ken Wersted,  
21 Traffic Consultant?

22 MR. WERSTED: Not on the subdivision.

23 CHAIRMAN EWASUTYN: Comments from  
24 Planning Board Members. Frank Galli?

25 MR. GALLI: Pat, on the lots you're



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

talking about on Brookside, to combine them that means the houses would have to be demolished?

MR. HINES: The houses are depicted on the site plan to be removed. Some portion of those lots are going to be taken up by the proposed revised cul-de-sac, so there will be a need to realign those lot lines. I think it was the discussion they were going to be combined into one or more residential lots.

MR. GALLI: But in the future if the developer wanted to build a house on them he could?

MR. HINES: I believe so. I haven't done the zoning -- Bryant hasn't done the zoning analysis but there is the potential for that, yes.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: I have nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: If you would revise  
your maps and resubmit. Thank you.

MR. BAINLARDI: Thank you very much.

(Time noted: 8:00 p.m.)

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

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

---

DATED: October 15, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X  
In the Matter of

NY-POK-004 (Edge Mobile, L.L.C.)  
(2007-33)  
929 Orchard Drive  
Section 1; Block 1; Lot 57  
AR Zone

----- X

AMENDED SITE PLAN  
SPECIAL USE PERMIT

Date: October 4, 2007  
Time: 8:00 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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI

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

APPLICANT'S REPRESENTATIVE: BETH STRIEGLE

----- X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The next item of business this evening is NY-POK-004 (Edge Mobile, L.L.C.). It's an amended site plan and special use permit located on Orchard Drive in an AR Zone. It's being represented by Beth Strieggle.

UNIDENTIFIED SPEAKER: Excuse me.  
Can't we ask you any questions?

CHAIRMAN EWASUTYN: It's not open for public comment.

MS. STRIEGLE: Good evening. My name is Beth Strieggle, B-E-T-H S-T-R-I-E-G-L-E, I'm here with Faulk & Foster on behalf of Edge Mobile. What we're proposing -- I'll be brief and then if you want me to get into greater detail you can let me know. What we're basically seeking to do is add some equipment to an existing tower, and that is located -- I know I had given each of you a packet there indexed. The drawings are included in there. It's State Route 300. It's a tower owned by American Tower. Edge is seeking to lease space at that site. We're not seeking to enlarge the compound, we're not seeking to add any height to the tower itself, we're just going to add antennas. Those

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

are going to be located at -- if you look at the  
-- if you wanted to follow along, on the drawing  
it would be C-3. They're proposing a height of  
110 feet. The equipment cabinets --

MR. BROWNE: Excuse me, Beth.

MR. GALLI: We're holding a meeting.  
If you wouldn't mind taking that outside.

UNIDENTIFIED SPEAKER: How do we say  
what we want to say? Give us a venue so we can  
say what we need to say.

CHAIRMAN EWASUTYN: I think you would  
have -- any comments you have you would have to  
approach the Town Board. I'll have Mr. Donnelly  
explain to you where we are in the process as far  
as the public.

MR. DONNELLY: There were a number of  
public hearings that were held in this matter.  
That --

UNIDENTIFIED SPEAKER: It's changed  
since then. They changed the plans since then.

MR. DONNELLY: The Planning Board --

UNIDENTIFIED SPEAKER: The public  
should be able to speak.

MR. DONNELLY: The public was permitted

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

to speak during that period. It's always anticipated that the plans will change. That was the purpose of the public hearing, to get public comments so we could see what changes needed to be made.

UNIDENTIFIED SPEAKER: As a result of the changes the public has no business?

MR. DONNELLY: There are no provisions for --

UNIDENTIFIED SPEAKER: Even though they live there and --

CHAIRMAN EWASUTYN: Ma'am, ma'am. Our Attorney is saying to you there's no provision in the Code to allow for public comment at this point.

UNIDENTIFIED SPEAKER: That's a problem.

CHAIRMAN EWASUTYN: Thank you.

UNIDENTIFIED SPEAKER: Who voted for that?

UNIDENTIFIED SPEAKER: They did change their plans.

CHAIRMAN EWASUTYN: The overall plan is in compliance. That's all. Thank you for your

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

time.

UNIDENTIFIED SPEAKER: There's no venue in a nice, pleasant, peaceful way --

CHAIRMAN EWASUTYN: There's no venue for that at this time.

UNIDENTIFIED SPEAKER: Except for voting. When voting time comes we'll make sure that happens.

CHAIRMAN EWASUTYN: Thank you.

Ms. Striegle.

MS. STRIEGLE: Those, as I was saying, are located -- the height location is C-3. A bird's eye view of the site itself is on C-1 and C-2 of the drawings.

Then in terms of the comments from the gentleman over here --

MR. MUSSO: I'm over here.

MS. STRIEGLE: You moved around on me. We agree with all the recommendations. The only one that is not -- we're not able to comply with is moving the antennas to the same height I believe as Cell One. I was hoping to have tonight a written document from American Tower, they had some structural concerns about the move

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

to that same height location, and also there's issues with interference with their equipment there. So hopefully in the next week I should have a written document from the tower owner which is -- they're saying they do not want that moved.

I know there's a comment on there that there was a rumor of a merger with Edge and I think it was Cell One that's on there. I've talked to high-ranking members at Edge and they have not heard of any, any such rumor like that. In fact, they wouldn't be pursuing a separate site if there was such a merger in the works.

So I guess if there are any questions I would be happy to address any of those to anybody that might have some questions.

CHAIRMAN EWASUTYN: Okay. I'd like to turn the meeting over at this point to Mike Musso, our telecommunications expert.

MR. MUSSO: Mr. Chairman, Members of the Board, members of the public, thanks for having me here again. Mike Musso, HDR LMS.

Unfortunately I don't have a large plan to put up on the easel. Just to refresh your



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

memory, this is the same tower that recently or another application had gone through this process and was approved. It's a 138-foot tower, Route 300 and Orchard Drive as was mentioned. There are existing Nextel antennas on top. There's an approved array from Cellular One at 120 feet. That was for four antennas.

Edge Mobile who is in front of you tonight is proposing three antennas at approximately the 110-foot level.

Consistent with Cell One in our other reviews, we looked for application completeness. The applicant I believe had some back and forth with the Planning Department but we feel that the application is in accordance with your Code and in accordance with your Ordinance.

It's a co-location site. There's no need for a new tower of course. No proposed lighting, no proposed height increase. Three panel antennas, again at 110 foot, existing cables and a rather small equipment cabinet. One equipment cabinet approximately 5 feet in height, 3 feet by 4 feet and would be within a 10 square foot leased area inside the existing fence. I

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

feel that's plenty of room for the facility that's proposed right now.

We really didn't have any major information requests or additional information. I think you're familiar with our reviews. Often times we'll submit a memo or a formal memo to the applicant asking for some back-up calculations and additions.

What we did want to confirm were really two things. One was the structural integrity of the existing tower and the loads that would be imparted by Edge Mobile, by their panel antennas and their cables. We wanted to confirm that a consistent review was done with Cell One, the one we did in the summer or earlier in the summer. We did speak with the same people at American Tower that performed the structural analysis, we reviewed the calculations, and again the bottom line is we feel that the analysis for the structure was complete. There's only about 62 percent of the overall structural capacity that's being utilized with this new installation. That takes into account engineering principles, factors of safety, et cetera. So we felt that

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

question had been answered.

The second one was working within the Hudson Valley predominantly but also in Westchester and Rockland, we really weren't sure who Edge Mobile was. We did a little digging on our own. We also asked the applicant about licenses in New York State and the Federal Communications Commission licenses. Indeed what we had found was Edge Mobile is an affiliate of Cingular, or now back to being called AT&T Wireless in our area. I also looked back through our records that we had with the Planning Department to see if there's any other AT&T or Cingular Wireless facilities. There's none within the Town of Newburgh. We do feel that the site is justified because this is of course the first by Edge, but it would also be -- if it's going to be utilized for AT&T Wireless or Cingular, there's really no service within the Town right now for that carrier.

We also asked further where else in the Hudson Valley Edge Mobile was either proposing sites or putting sites on air. They did provide somewhat of a build-out plan in their application

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

materials on the coverage maps. Clearly Dutchess, Orange, Ulster is a new target area. That does coincide with what we know about Cingular, AT&T. Those are target areas for that larger national carrier.

There is a site that we had worked on ironically a few years ago up in the Town of Marlboro that Edge is now taking over, and I believe is in the building permit stage, and there's also a site proposed up in Kingston, one over in Beekman on the other side of the river. So they're no strangers to the municipality although they're a new name. I'm sure it's a new name for this Board as well.

As usual we did look at the health and safety. Again having the previous data from the other application of the same site we did look at the calculations. The radiofrequency emissions encompassed a cumulative and conservative review of general population exposure looking at existing Nextel, Cell One and also the three proposed Edge Mobile antennas. As expected they're about 25 times lower than the general public maximum permissible exposure standard.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

We also looked at, and again I think the aesthetics I had just been over about the ground-based area. No lighting or any increase in the tower is being proposed.

Our recommendations I'll run through. The security fencing and the signage should be routinely inspected and maintained. That's a general comment that we have on really all of our reviews. I put something in there about color matching, especially for the cable and proposed antenna. The applicant has indicated that that's not a problem. Based on the multi-carrier nature of the site now, this would potentially be the third carrier approved, a baseline field reading once they're on air just to confirm those RF calculations. Again the applicant said that that was okay to do.

The consolidation is something that we put in, and the applicant has taken some exception to that. I just want to clarify a couple things. Any approved facility has to go through the Newburgh Code even after build out. There are inspection reports that are submitted on an annual basis. With the changes in

1  
2 consolidation and carriers we understand that  
3 it's not feasible at this time, but if it ever  
4 becomes feasible to locate, again maybe on  
5 another level with another carrier, that might  
6 some day benefit the Town in that you could open  
7 up another space for a future co-location.  
8 Before the public hearing is set I will follow up  
9 with the applicant rep to get that statement that  
10 she just mentioned, why it's not technically  
11 feasible at this time and why it may not be in  
12 the future. That's something I could speak to  
13 this Board further about when I get that  
14 information.

15 I think that generally wraps up our  
16 review for this co-location.

17 CHAIRMAN EWASUTYN: Thank you.  
18 Comments from Board Members?

19 MR. GALLI: No additional.

20 MR. BROWNE: I have a question. Edge  
21 is an affiliate of AT&T Cingular?

22 MS. STRIEGLE: Yes.

23 MR. BROWNE: Is the intent for their  
24 services to be used on this antenna array?

25 MS. STRIEGLE: I'm not sure I

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

understand what your question is.

MR. BROWNE: If I have an AT&T phone I can use this array?

MS. STRIEGLE: If it's through Edge.

MR. BROWNE: I have to have an Edge account?

MS. STRIEGLE: Correct.

MR. BROWNE: Even though you're affiliated you will not be carrying AT&T?

MS. STRIEGLE: Right. Exactly.

MR. BROWNE: Why do I want Edge? Nobody has it around here.

MR. GALLI: It's prepaid. Edge is prepaid.

MS. STRIEGLE: I believe it is. I'm not exactly sure. It's another option. It's another option for consumers. It's another choice.

MR. BROWNE: So even though -- okay, that's an option there. That will not address the AT&T vacancy, if you will, in this area; correct?

MS. STRIEGLE: When you say vacancy, is there another issue?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. BROWNE: From what Mike mentioned, this area doesn't have good coverage from AT&T or Cingular.

MS. STRIEGLE: Currently that's correct. Right.

MR. BROWNE: So from what your applicant -- the way Mike presented it, it sounded as though they would also be sharing these arrays with Edge. You're saying no, it's going to be Edge strictly?

MS. STRIEGLE: Yes.

MR. MUSSO: Is there a roaming agreement of any kind that you know of?

MS. STRIEGLE: Oh, geeze. I'm sure there probably is but I don't know what the details are of that.

MR. BROWNE: The reason for the question is if that's the case we would expect I would assume in the future to have another carrier come in that's going to want to put something up, too.

MR. MUSSO: I think that's a great question. It's something I could follow up further with.



1  
2                   One thing about the possible antenna  
3 consolidation is that Cellular One is suspected  
4 to be acquired by AT&T also, and the thinking was  
5 they're on a different frequency. If Edge was  
6 also there, you could roam, you could get service  
7 if you had an AT&T phone. I think that's  
8 something in the next month I could follow up  
9 with and report back to you on. I understand  
10 where you're coming from, if you have a phone  
11 from a Cingular store you would expect it to work  
12 here. There is also roaming agreements from  
13 other carriers that exist too that are pretty  
14 complicated. I think Cellular One currently has  
15 those roaming agreements. That's something I  
16 think I can make a little bit clearer for you.

17                   MR. BROWNE: This application, how does  
18 this tie into completing a larger network pattern  
19 if you will?

20                   MR. MUSSO: Do you want to address  
21 that?

22                   MS. STRIEGLE: Sure. It's just we're  
23 starting off with a base because we have -- Edge  
24 has no presence in this area. You start out with  
25 your base and then you gradually fill in spots

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

for your coverage.

MR. MUSSO: In the Mid-Hudson Valley what we can see and in the application materials provided, again it appears to be Dutchess, Putnam, Orange and Ulster Counties are being targeted right now as a review area.

MR. BROWNE: From a telecommunications standpoint there's no need for this for the consumer, it's only for the applicant that wants to develop a business. Correct?

MR. MUSSO: Like all the other ones, it's the applicant under the FCC license that gives them the right and directive to build out the system.

MS. STRIEGLE: The FCC does regulate how many carriers are allowed a license in a particular area, too. Just so you're aware of that.

I also wanted to address the situation with abandoning equipment. Just to let you know, I know that there's been a lot of talk with the Sprint/Nextel merger. The tower company, American Tower, they own the tower. They make their business off of renting space. I don't

1  
2 remember, I haven't specifically read through  
3 their lease agreement, but I think I provided  
4 that, and I think it addresses abandoning  
5 equipment right in the lease itself because they  
6 lose money. If that's sitting there abandoned  
7 they're not making money. I know it's standard  
8 in the industry that if there's abandoned  
9 equipment, that they either -- they take their  
10 equipment down and another carrier will utilize  
11 -- if there's like say a vacant cement slab, I  
12 know of a couple cases actually with Sprint and  
13 Nextel where they are utilizing other space and  
14 other sites, consolidating equipment into  
15 one unit where it needs to be consolidated and  
16 that sort of thing. I'm just throwing that out  
17 there.

18 MR. MUSSO: There's also provision in  
19 the Town's Code also for abandoning if somebody  
20 goes out of business or is out of use.

21 MS. STRIEGLE: I think we already  
22 provided that.

23 CHAIRMAN EWASUTYN: Ken?

24 MR. MENNERICH: No questions.

25 CHAIRMAN EWASUTYN: Ed O'Donnell?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. O'DONNELL: Two things. I think Beth, in your words in the beginning you mentioned something about a difference in the height of the tower, where you're going to put your pads as opposed to what Mike wanted. There was a height issue somewhere, was there not?

MS. STRIEGLE: He was actually suggesting that we consolidate ours at the same height as --

MR. MUSSO: Cellular one.

MS. STRIEGLE: -- Cellular One is currently at right now. What I'm saying is, number one, the tower owner will not allow that because we've already spoken to them. They won't allow it. Number two, there's radio -- there's frequency issues. The equipment will interfere with one another if that's done. I was hoping to have a letter to present to the Board from American Tower regarding the matter. I should have that in probably the next week. I'll make sure that Mike gets that letter.

MR. O'DONNELL: What do you think about that, Mike?

MR. MUSSO: Well, the first thing that

1  
2 came to mind is it's only three antennas being  
3 proposed. Nextel has twelve at the top. Cell  
4 One is on a different frequency actually, the 850  
5 range as opposed to the 900 range. They have  
6 four that are approved. It's something I would  
7 like to see certainly from the tower company. If  
8 there's another technical justification about  
9 compatibility, it's something I would like to  
10 look at.

11 MR. O'DONNELL: This is an open  
12 issue --

13 MR. MUSSO: Until --

14 MR. O'DONNELL: -- from your point?

15 MR. MUSSO: It's an open issue.

16 MR. O'DONNELL: If it's an open issue  
17 with you it's an open issue with us.

18 MS. STRIEGLE: We should be addressing  
19 that probably within the next week.

20 MR. O'DONNELL: I'm sure you will. I  
21 just wanted to know.

22 Just another thing. American Tower  
23 owns this tower?

24 MS. STRIEGLE: Yes. They have no  
25 equipment on it, they just own the tower.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. O'DONNELL: Yes or no would be fine. Take it easy. Who is responsible for the maintenance of this tower?

MS. STRIEGLE: American Tower.

MR. O'DONNELL: Is that somewhere in the contracts that are written here, Michael?

MR. MUSSO: I haven't reviewed the about thirty-page lease agreement in general. That's something --

MR. O'DONNELL: Even with the other companies that have panels here --

MR. MUSSO: That's right. Typically the service providers show up at the site about once a month, once every six weeks. That's to fine tune the ground-based equipment, to check on their equipment for vandalism or other such things, make sure the gates are locked. The FCC signage, the health and safety signage they have to have up by law. They'll check those things out, and also if there's any tuning that needs to be done between the base station and the antennas.

MR. O'DONNELL: Do you intend to take a visit to this site prior to our next meeting?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. MUSSO: I certainly can.

MR. O'DONNELL: I think you should. I would be interested to see just what's going on.

MR. MUSSO: I was there in August I guess for the previous application. I do have some photos also I can share at the next meeting.

MR. O'DONNELL: Thank you.

MR. MUSSO: I will make a note of that.

MS. STRIEGLE: I believe if you're interested, Exhibit P is the lease there, and then I also provided photos. I don't know if I included those in your packets there, the photo simulations. Those are provided. Okay.

Was there a problem with the site that had come up in the prior meeting?

MR. O'DONNELL: I'm just the kind of guy that asked a couple questions.

MS. STRIEGLE: Okay. If there's a problem I would like to rectify it.

MR. O'DONNELL: If there is we'll give you an opportunity to do that.

MS. STRIEGLE: Okay.

CHAIRMAN EWASUTYN: Any additional comments? Joe Profaci?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant, you had a comment or two on this.

MR. COCKS: Most of my comments were addressed by Mike. One is regarding what Edge Mobile was.

The only thing we have to do is refer this to the County Planning Department.

CHAIRMAN EWASUTYN: At this time I'll move for a motion to refer this to the Orange County Planning Department.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

carried.

Would you get plans to Bryant Cocks and he'll circulate them to the Orange County Planning Department?

MS. STRIEGLE: Do they provide a recommendation?

CHAIRMAN EWASUTYN: We're required, because you're within 500 feet of a county road, I think it's under Municipal Law 239-A, that we refer this to the Orange County Planning Department.

MS. STRIEGLE: That's Bryant Cocks?

CHAIRMAN EWASUTYN: The Planning Consultant.

What I would like to do is set this up for a Board business item for the 15th of November at which point the thirty-day time period for circulation would have reached that point. That's our next available meeting within that thirty-day time period. Having gotten final comments back from you that night, if all is well then we'll look to make a SEQRA determination and set December 6th for a public hearing.

I'll move for a motion from the Board

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

to set this up for Board business for the 15th of  
November.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So  
carried.

Thank you, Beth.

MS. STRIEGLE: Thank you. I appreciate  
your time.

(Time noted: 8:22 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 15, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X

In the Matter of

LANDS OF FINNIGAN  
(2007-21 )

71 Fifth Avenue  
Section 70; Block 1; Lot 3  
R-3 Zone

----- X

TWO-LOT SUBDIVISION

Date: October 4, 2007  
Time: 8:22 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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI  
ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
BRYANT COCKS  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: MICHAEL AIELLO

----- X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The next item of business is the lands of Finnigan. It's a two-lot subdivision locate on 71 Fifth Avenue in an R-3 Zone. It's being represented by Mike Aiello.

MR. AIELLO: Mike Aiello representing the applicant, lands of Finnigan.

CHAIRMAN EWASUTYN: There were some revisions that were requested on your maps. There was a question as far as the potential for either removal or transfer of 100, possibly 1,000 cubic yards of material.

We received review comments from our consultants and I'll turn to them at this time.

Pat Hines, Drainage Consultant.

MR. HINES: We reviewed the revised plans. The first plans didn't have the topography on there. The revised plans have the topography.

There is very little site grading required. There was a note, whether it was a remnant of another set, that said 1,000 plus or minus yards. That's not the case. There's very little grading based on the topography, so that's no longer an issue.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Because it's connected to the Town of Newburgh sewer collection system they'll need the City of Newburgh's approval for the single-family house. Those are the only issues we have.

CHAIRMAN EWASUTYN: Mike, do you understand how you would get the City acceptance flow letter from the City of Newburgh?

MR. AIELLO: I presume by letter to the sewer department there.

MR. HINES: What happens is you write a brief narrative report to Jim Osborne, the Town Engineer, he will forward that on to Bill Hauser, the City Engineer, who then -- I don't know what does he with them. You'll eventually get a letter back from the City. I do know I have to chase him around a little bit. The City will issue a letter stating that they'll accept the flow. It's a letter to Jim Osborne with the standard hydraulic loading for a single-family house and then he'll forward it on to the City.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: He addressed all of our comments regarding lot layout. It meets the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

setback.

The only thing is they're just showing the front-loaded house. We can't really request this but it's been our policy to do side loaded.

MR. AIELLO: I'm sorry?

MR. COCKS: A side-loaded garage on the house. It just shows the driveway going directly in. You don't have to. We've been requesting it.

MR. AIELLO: You're asking for a driveway?

MR. COCKS: No, no. The driveway just led straight up to the house with the garage in front. We've been asking everyone to put the garage around the side. It's in the design guidelines. You don't have to, it's only one house.

MR. HINES: It may be tough with the lot geometry being so narrow.

MR. COCKS: It was just a suggestion.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: Nothing more.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. MENNERICH: Pat, back in August I had a note that said you were going to look at wetland conditions.

MR. HINES: The only wet spots are in the very rear of the parcel. This is up high and dry. That was the discussion we had with the fill.

MR. MENNERICH: Thanks.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: Nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Mike Donnelly, would you like to add anything at this time?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to declare a negative declaration for the two-lot subdivision for the lands of Finnigan and set the 15th of November for a public hearing.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So carried. Thank you.

Any additional questions?

MR. AIELLO: No, sir.

CHAIRMAN EWASUTYN: If you would contact Dina and Dina will give you the mailing list.

(Time noted: 8:28 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 15, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X

In the Matter of

LANDS OF ADAMO  
( )

Fostertown Road east of Nelson Drive  
Section 43; Block 1; Lot 1.31  
R-2 Zone

----- X

FOUR-LOT SUBDIVISION  
LOT LINE CHANGE

Date: October 4, 2007  
Time: 8:29 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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The next item of business is the lands of Adamo. It's a four-lot subdivision and lot line change located on Fostertown Road east of Nelson Drive in an R-2 Zone. It's being represented by Ken Lytle.

MR. LYTLE: Good evening. Since our last time here we were able to modify the map with the consultants' comments. They asked us to verify some barns had been removed on lot 1. They have been done and we submitted pictures to verify that.

The Orange County Highway Department, we received the okay for the driveway -- the private road location. We've attached a copy of that.

Pat asked for lines for the topography to be darkened up so it's more legible. We've done that also.

He asked for additional testing to be done because of the locations of the septic systems. We've done that also.

The only, I believe, outstanding comment is I received a consultant's comment today, I know Pat received a comment regarding

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

major versus minor to be discussed with Mike.

CHAIRMAN EWASUTYN: Mike, do you want to pick up where Ken Lytle just stopped off?

MR. DONNELLY: This is a similar issue that I gave you a letter on on the Sodano application. It has to do with when Health Department approval is required. The clarification is the Health Department requirement is not one that's tied to the major or minor status under your own Ordinance. It is, however, tied to the number of lots and their size. The basic outline is a subdivision application requires Orange County Health Department review if it proposes to divide a tract of land into five or more parcels, each of which is five acres or less. So if there's four that are five acres or less and one that's more than five acres it doesn't need it.

Further, if a subdivision application is accomplished in stages over time, Health Department approval is also required if within any consecutive three-year period, a rolling three-year period, five or more parcels of less than five acres each are created, and in that

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

case it goes back to the earlier approved lots even if they are occupied.

Now I've got to get my handle on what's proposed here. It is currently a four-lot subdivision. Pat, your point was in your memo that there had been an earlier cut off?

MR. HINES: No. I believe it's a five-lot subdivision. There's three lots in existence today and I guess they're being consolidated.

MR. DONNELLY: They're all five acres?

MR. HINES: Yes. The result is when this is accomplished there will be five lots all less than five acres.

MR. DONNELLY: And how long ago were the other two lots created?

MR. HINES: I don't know the answer to that.

MR. LYTLE: I'm sure it's more than three years.

MR. HINES: This lot geometry in no way reflects the --

MR. LYTLE: Basically there's a remaining lot. Again it's I believe a hundred

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

feet wide strip of the original lot we're combining with this one. The remaining land from this is going to be combined with this lot. If you want me to put the line back in there and note it to be deeded over. That's really how we got the third lot.

MR. DONNELLY: The earlier two lots that may have occurred more than two years ago are simply being combined?

MR. LYTLE: That's correct.

MR. HINES: And re-subdivided.

MR. DONNELLY: That would technically be a subdivision. This doesn't talk in terms of subdivision, it talks -- at least not within the terms of our definition. It talks in terms of dividing a tract of land into four -- into five or more parcels. Since this is a combination, although that might be a subdivision under our definition, it isn't the division of parcels of land under the Health Department code. I don't think in that scenario this would require Health Department review.

MR. HINES: One of the houses is already constructed. I counted one, two, three,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

four, five, and they're all less than five acres.

MR. DONNELLY: I don't believe that needs Health Department approval.

MR. LYTLE: Thank you.

CHAIRMAN EWASUTYN: Pat Hines, additional comments.

MR. HINES: We just discussed my first comment. Stormwater management, I know the County signed off on it. I just don't know where those swales are going to daylight to it. The elevations you gave me. We need to see that because it looks like you're at the high point of the road or coming out to the high point.

A private road access and maintenance agreement.

The driveway for lot 3, it looks like a drafting issue, it needs to get pulled over.

We looked at the septic systems and they are acceptable under the design requirements.

CHAIRMAN EWASUTYN: Thank you. Bryant Cocks, Planning Consultant.

MR. COCKS: This was previously a three-lot subdivision and it changed to a four.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

We sent out the intent for lead agency, and that was on May 4th.

The applicant also provided photos. There was a barn that was removed on the site. That's already done.

We got a highway work permit by the DPW from last year. They said the sight distance is not going to be an issue on the proposed private road.

The road name was accepted by the Town Board.

The survey sheet with the seal and signature was added.

The applicant is going to have to add a proposed stop sign and a bar on the roadway to the plans.

Pat also noted the driveway on lot 3 crossed over to lot 4.

There's a couple stonewalls on site running along the property line. Just put a note on the plans stating they won't be disturbed unless necessary.

MR. LYTLE: No problem.

CHAIRMAN EWASUTYN: Comments from Board

1  
2 Members. Frank Galli?  
3 MR. GALLI: No additional.  
4 CHAIRMAN EWASUTYN: Cliff Browne?  
5 MR. BROWNE: On that last comment that  
6 Bryant just made, unless necessary, I think that  
7 should be bounced to one of the consultants to  
8 see if it really is necessary if they are going  
9 to be disturbed.  
10 CHAIRMAN EWASUTYN: We had some  
11 language, we crossed the stonewall issue at our  
12 last meeting, to say something. We had a better  
13 definition.  
14 MR. DONNELLY: I'll look.  
15 CHAIRMAN EWASUTYN: You're right, we  
16 did.  
17 Ken Mennerich?  
18 MR. MENNERICH: No questions.  
19 CHAIRMAN EWASUTYN: Ed O'Donnell?  
20 MR. O'DONNELL: Are you keeping the  
21 stonewall?  
22 MR. LYTLE: Yes. We'll modify the note  
23 accordingly.  
24 CHAIRMAN EWASUTYN: Joe Profaci?  
25 MR. PROFACI: Nothing.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: I'll move for a motion to declare a negative declaration for the lands of Adamo and to set the 15th of November for a public hearing.

MR. GALLI: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ed O'Donnell. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Ken, if you'd contact Dina in reference to the certified mailing list.

MR. LYTLE: Okay. Thanks.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 15, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X

In the Matter of

SODANO SUBDIVISION  
(2007-25)

Forest Road  
Section 3; Block 1; Lot 33.1  
AR Zone

----- X

TWO-LOT SUBDIVISION

Date: October 4, 2007  
Time: 8:36 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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI  
ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
BRYANT COCKS  
KAREN ARENT

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The following item of business is Sodano. It's a two-lot subdivision located on Forest Road in an AR Zone and it's being represented by Lawrence Marshall.

MR. MARSHALL: Good evening. As stated, this is a two-lot subdivision located on the easterly side of Forest Road in the AR Zone. We're proposing a simple two-lot subdivision dividing the existing 20.5 acres into approximately 9 acres and 11.5 acres.

What we have proposed is a single entrance for the two proposed lots with a common driveway easement and maintenance agreement over the common portion of that driveway.

At the previous meeting that we attended there was a little bit of confusion over whether or not this application would need referral to the Orange County Health Department. As Mr. Donnelly stated in the previous application that presented before you, that has been cleared up and this does not require referral to the Orange County Health Department.

I believe that we have addressed a majority of the comments. There may be one or

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

two outstanding from the previous comments.

CHAIRMAN EWASUTYN: Okay. We did receive a response from the Orange County Planning Department the 1st of October. The Board Members and the Consultants received a copy of that in the file.

At this point I'll turn to Bryant Cocks, Planning Consultant, for his final comments.

MR. COCKS: Once the Health Department issue was resolved there wasn't really much going on.

They provided a wetland delineation as requested.

We asked about moving the driveway from one location. The two houses are pretty close on the lots. They decided not to do that.

I went out to look at the stonewalls. They were too far back on the site to see from the road and there were people outside, so I didn't want to go trekking onto people's property that I wasn't allowed to. It was pretty far back so I don't know what the conditions are of them. I guess it would be the same note as we just

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

discussed last time to be put on the plans.

CHAIRMAN EWASUTYN: Thank you. Pat Hines, Drainage Consultant.

MR. HINES: Our previous comments have been addressed. I noticed that there is a letter from the Orange County Public Works that had a list of requirements they wanted to see on the plans. That will need to be addressed prior to final.

Our previous comments were addressed. The septic system revisions we requested were accomplished.

We have nothing outstanding other than those County issues to be addressed, otherwise a neg dec and a public hearing would be in order.

CHAIRMAN EWASUTYN: Thank you. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: What was the question



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

with the stonewall, do you remember?

MR. COCKS: We were just to go check the condition of them to see if they were worth saving or not. There was a strip of woods --

MR. O'DONNELL: I got that. Have you seen the stonewalls?

MR. MARSHALL: I haven't been out to the site, no. We've added the comment or the note that was requested of the previous applicant that stonewalls only be removed if necessary for the development of these sites. We've actually located the driveways in areas to try to preserve them as much as possible.

MR. O'DONNELL: So the driveway would be the only reason why you would have to --

MR. MARSHALL: That's correct.

MR. O'DONNELL: You set the driveways in such a position it won't affect the wall?

MR. MARSHALL: Yes, as best we could. We tried to avoid it as best we could without removal of the stonewalls. Unfortunately because of the grading a small portion may require removal, but that is determined at the time of development.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. O'DONNELL: Okay, thanks.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing, thank you.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to declare a negative declaration for the two-lot subdivision of Sodano and set the 15th of November for a public hearing.

MR. BROWNE: So moved.

CHAIRMAN EWASUTYN: I have a motion by Cliff Browne.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

SODANO SUBDIVISION

107

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Time noted: 8:41 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 15, 2007

SODANO SUBDIVISION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X

In the Matter of

G&G PROPERTIES  
(2007-24)

Zeus Court off Pressler Road  
Section 6; Block 1; Lot 17.41  
AR & RR Zones

----- X

FOUR-LOT SUBDIVISION  
LOT LINE CHANGE

Date: October 4, 2007  
Time: 8:41 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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The last item of business we have this evening is G&G Properties. It's a four-lot subdivision and lot line change on Zeus Court off of Pressler Road. It's in an AR and RR Zone and it's being represented by Lawrence Marshall.

MR. MARSHALL: This is a proposed four-lot subdivision off Zeus Court which is a private road located off of Pressler Road. The applicant proposes a four-lot subdivision with three new houses and one existing house. The lots range in size from 2.19 acres to 10.94 acres. It also includes a lot line change parcel which will be transferred to an existing tax map parcel owned by G&G Properties.

I believe that Mr. Jukacus, the applicant, sent the Planning Board a letter. Am I correct on that?

CHAIRMAN EWASUTYN: We received a letter. I'll ask Dina Haines -- Dina, would you read this into the record?

MS. HAINES: Absolutely. "Dear John Ewasutyn, regarding your request that lots number 2 and 3 not be further divided, note number 9 on

1  
2 the revised subdivision map, I am under contract  
3 with Jason Gillespie to sell the house and  
4 property. He will not go through with the  
5 purchase if note number 9 is not deleted from the  
6 subdivision map. I am now paying over \$8,000 per  
7 year for school taxes alone and have an appraisal  
8 for the house of \$330,000. I cannot afford to  
9 continue paying this and the many other expenses  
10 incurred in holding this property. Sincerely,  
11 G&G Properties. Gus Jukacus, President."

12 MR. MARSHALL: The applicant wishes to  
13 remove the previously placed note on -- actually  
14 it's note 9 on the subdivision map that lots 2  
15 and 3 be restricted from further subdivision.

16 CHAIRMAN EWASUTYN: Bryant Cocks, we'll  
17 turn to you for your comments in reference to  
18 this.

19 MR. COCKS: I actually didn't get that  
20 letter. I don't know if it's in my package.

21 CHAIRMAN EWASUTYN: Everyone got a copy  
22 in there box.

23 MR. COCKS: I haven't seen that yet. I  
24 didn't know about that issue.

25 My comments were that it looked like

1  
2 the driveway for lot 2 crossed over to lot 1  
3 right before -- at the very front of it.  
4 MR. MARSHALL: Right in here?  
5 MR. COCKS: Yes. That's going to need  
6 to have an easement submitted to Mike Donnelly.  
7 And 3 and 4, it's the same issue.  
8 You guys included the signed wetland  
9 delineation map. That was requested at the last  
10 meeting.  
11 There's also stonewalls on this site.  
12 It looks like you're going to have to take some  
13 down to build the house on lot 4. I was asking  
14 if you would be able to re-use those at the front  
15 of the drive as an entryway instead of just  
16 discarding them.  
17 We looked at the lot layout and all the  
18 lots meet zoning requirements and meet all the  
19 setbacks.  
20 This is in an RR Zone and it's a Type I  
21 action. The Board should consider declaring  
22 their intent for lead agency.  
23 CHAIRMAN EWASUTYN: Pat Hines, Drainage  
24 Consultant, your comments in reference to further  
25 subdivision of lots 2 and 3.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. HINES: They're large lots, greater than 10 acres each of them. Access will be an issue. It may be a challenge to re-develop them but there's a lot of acreage there. They are fairly steep and they grade down to the wetlands. The wetland map has been provided.

There will be access issues if you don't make provisions now if there is plans to re-subdivide them because you're giving away by fee ownership chunks of the property. It may, by the current lot geometry, be very difficult to further subdivide even though they're 10 acres because of the flag lot nature of lot 3.

CHAIRMAN EWASUTYN: Mike, would you like to add to this? Do you have a copy of the map?

MR. DONNELLY: I do. What was the source of the map note in the first instance? Was it a volunteered condition?

CHAIRMAN EWASUTYN: I think Bryant's review had mentioned that there should be no further subdivision.

MR. DONNELLY: So initially it became a map note because you added it without checking



1  
2 with -- is there a way that -- you have in the  
3 past, and I think it's within your authority,  
4 where an applicant chooses a layout that makes  
5 impossible or highly infeasible further  
6 subdivision, to on that basis limit further  
7 subdivision. I guess Pat is suggesting that this  
8 particular geometry does make that difficult. Is  
9 there a way to change the geometry, because there  
10 is a lot of land here, such that a further  
11 subdivision is more feasible?

12 MR. HINES: It looks like it would  
13 require the waiver for three lots on a common  
14 driveway at a minimum any way you cut this, or  
15 the extension of the private road but that would  
16 involve the ownership of lot 4, lot 3 and lot 2.  
17 The topography is tough but 10 acres is a lot of  
18 land to put that restriction on forever.

19 MR. DONNELLY: You are choosing to make  
20 this not a private road where those three lots  
21 come together but rather a common driveway. You  
22 would need Town Board approval.

23 MR. HINES: There's two driveways that  
24 will be sharing under this.

25 MR. DONNELLY: If you went beyond that

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

it would be a third but if you extended the private road into lot 3 --

MR. HINES: Correct.

MR. DONNELLY: -- then that would no longer be an issue.

MR. HINES: Extension of the private road to where 3 and 4 split would eliminate that.

MR. DONNELLY: That I think would be valid because it doesn't present the difficulties where later on the Town Board and you would be put in a tough position when they asked for three lots on a common drive because they say we have almost 11 acres here, it's not fair we shouldn't be able to cut it up. So you would almost be forcing the Town Board to be granting that waiver. If they presented a private road to the lot 4/lot 3 boundary, that wouldn't be presented and then it's just an engineering and topo issue in the future.

CHAIRMAN EWASUTYN: Would it be appropriate at this point, while we declare our intent for lead agency, to ask the applicant to revise his subdivision maps and present us with what we're discussing this evening, an extension

1  
2 of the private road to lot 3 so we could then act  
3 on it and have something before us to see what  
4 we're --

5 MR. DONNELLY: I think that's a fair  
6 compromise that meets the applicant's desire not  
7 to limit, you know, substantial acreage to  
8 potential subdivision that is very, very steep  
9 but that doesn't force the Town to approve an  
10 undesirable subdivision in the future simply  
11 because there's a large piece of land. I think  
12 it's an appropriate compromise to ask the  
13 applicant to do it with a view towards removing  
14 that limitation. It's a fair and appropriate  
15 idea.

16 CHAIRMAN EWASUTYN: Would the Board  
17 agree to that?

18 MR. GALLI: Yes.

19 MR. PROFACI: Yes.

20 MR. BROWNE: Yes. I have an issue with  
21 the reasoning. Although I don't want to feel  
22 insensitive but the reasons that were given are  
23 not reasons that we can act on as a Board. If  
24 they want to go back and redo their map as Mike  
25 and you have suggested, I think that would be

1  
2 more than appropriate. The reasons that were  
3 given for not putting that note on there I don't  
4 think are appropriate. I mean we can't respond  
5 to those kinds of personal issues, it's not part  
6 of our job.

7 MR. MARSHALL: Just so the Board is  
8 aware, I did not know that was -- I did not know  
9 the contents of that letter prior to the  
10 secretary reading it.

11 MR. BROWNE: Let me ask another one,  
12 John. What's the condition of that private road  
13 right now?

14 MR. MARSHALL: It's a --

15 MR. BROWNE: Dirt road?

16 MR. MARSHALL: -- gravel road.

17 MR. BROWNE: It's in pretty bad shape.  
18 Is that going to get fixed up in this project?

19 MR. MARSHALL: We do have proposed  
20 pavement along the road.

21 MR. BROWNE: Good.

22 MR. HINES: That's only for the piece  
23 you're extending.

24 MR. MARSHALL: Honestly I don't -- I  
25 know we're at least doing it to the end.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. HINES: I was of the assumption that it was going to be, where it says private road, right around that you're extending it.

MR. MARSHALL: Where the turnaround is being constructed.

MR. BROWNE: The road coming down to Pressler is in pretty bad shape.

MR. MARSHALL: We do show an edged -- a dark black line that's being segmented. That leads me to believe we're proposing at least a widening of the existing roadway.

MR. BROWNE: Does that constitute a modification so it's going to require some proper pavement, et cetera?

CHAIRMAN EWASUTYN: I think we've been down this road before.

MR. HINES: We can't require the private roads --

MR. DONNELLY: The existing section -- we've had correspondence with Mark Taylor. We have no authority to require improvement of the existing section of a private road although we can require the new section of a private road to meet spec. However, if the existing section of a

1  
2 private road is in such poor condition that it  
3 can't afford or can't handle additional lots, you  
4 would be in a position to limit the number of  
5 lots that could be added to that private road.  
6 MR. BROWNE: Who would we have look at  
7 that to determine that condition from our side?  
8 Would that be Pat?  
9 MR. HINES: Yeah.  
10 MR. BROWNE: Would you?  
11 MR. HINES: I can. I've been on Zeus  
12 Court before. I met Jim Raab there one day.  
13 CHAIRMAN EWASUTYN: Can you make it a  
14 point of meeting Lawrence out in the field when  
15 you review it?  
16 MR. HINES: I can do that. We can take  
17 a look at it.  
18 CHAIRMAN EWASUTYN: Any additional  
19 comments?  
20 MR. BROWNE: No.  
21 CHAIRMAN EWASUTYN: Ken Mennerich?  
22 MR. MENNERICH: No questions.  
23 CHAIRMAN EWASUTYN: Ed O'Donnell?  
24 MR. O'DONNELL: No, thanks.  
25 CHAIRMAN EWASUTYN: Joe Profaci?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. PROFACI: No, thanks.

MR. GALLI: John, I have one question if you don't mind. Can we in any way tie in the future subdivision of those extra acres to the fixing of the road from the beginning?

MR. DONNELLY: I would think it would be appropriate to indicate in the resolution that future subdivision of lots 2 and 3 may require improvements to the existing Pressler Road rather than mandate it now because you don't know what condition it's going to be in until you get to that point.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to declare our intent for lead agency for G&G Properties for a four-lot subdivision.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli.

MR. PROFACI: Second.

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

(No response.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself.

When do you think you'll have the revised maps available for the layout?

MR. MARSHALL: We should -- to extend the proposed private drive down to the private road -- down to the split of 3 and 4? We could potentially have it to you by next week.

CHAIRMAN EWASUTYN: I'm not necessarily needing it by next week. What I'm going to do is to make a motion from the Board subject to the applicant presenting his revised plans no later than the 1st of November with copies being sent directly to our consultants and ten copies to Planning Board. If we receive them no later than the -- what's today's date? The 4th. If we receive them no later than the -- we can have them in a week you're saying?



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. MARSHALL: Yes.

CHAIRMAN EWASUTYN: If we can have them by the 11th we'll set this for the 15th of November Planning Board meeting.

MR. DONNELLY: You will need to issue a negative declaration before you set the hearing, and you can't do that until --

CHAIRMAN EWASUTYN: I'm just setting it for an agenda item.

MR. DONNELLY: I'm sorry.

CHAIRMAN EWASUTYN: You're right. What I'm trying to do is accommodate the applicant in reference to just setting it for the 15th of November.

MR. MARSHALL: I'm sorry. By the 11th.

CHAIRMAN EWASUTYN: Do you think that's reasonable, --

MR. MARSHALL: Yeah.

CHAIRMAN EWASUTYN: -- if you can have them by the 11th?

MR. MARSHALL: By the 11th to be on the 15th.

CHAIRMAN EWASUTYN: Thanks.

MR. COCKS: John, would you like to

1  
2 refer this to the County or wait?  
3 CHAIRMAN EWASUTYN: Because it's the  
4 Ulster County property --  
5 MR. COCKS: We're just looking at it  
6 and Fostertown --  
7 CHAIRMAN EWASUTYN: It's very close.  
8 MR. DONNELLY: It may need to go to the  
9 Town as well?  
10 MR. HINES: The County because  
11 Fostertown is a County road.  
12 MR. COCKS: It's not near enough to  
13 Ulster.  
14 CHAIRMAN EWASUTYN: I think we can't  
15 really do that until we have the plans that we  
16 want to circulate.  
17 MR. HINES: If he submits them --  
18 CHAIRMAN EWASUTYN: If you have them by  
19 the 11th would you make it a point of getting a  
20 copy to Bryant Cocks so we can coordinate that  
21 with Ulster County?  
22 MR. COCKS: I don't think it has to go  
23 to Ulster County. Fostertown is a County road.  
24 MR. DONNELLY: I thought it was near  
25 the Town.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: We'll refer it to the Orange County Planning Department.

MR. MARSHALL: Sure. That would be an additional copy to him?

CHAIRMAN EWASUTYN: To Bryant Cocks.

MR. MARSHALL: Okay.

CHAIRMAN EWASUTYN: I'll move for a motion to refer this to the Orange County Planning Department subject to the applicant's representative, Lawrence Marshall, presenting plans to Bryant Cocks by the 11th of October.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Just cc us on the correspondence,  
please.

MR. MARSHALL: Sure.

(Time noted: 8:56 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: October 15, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X  
In the Matter of

EMERGENCY RESPONSE

Discussion by Patrick Hines and Frank Galli

----- X

BOARD BUSINESS

Date: October 4, 2007  
Time: 8:57 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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI

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

----- X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: We have two items of Board business. I'll refer to Dina Haines, Planning Board Secretary, to introduce those items.

MS. HAINES: The first item on tonight's Board business is Frank Galli and Pat Hines regarding emergency response.

CHAIRMAN EWASUTYN: The meaning behind that was, as you recall, at a public hearing that we had with Driscoll there was a member from the Cronomer Valley Fire Department who spoke on behalf of emergency response and whether or not they could provide service during the daytime. I just kind of wanted to talk about emergency response in a general sense. From what I'm understanding, that particular fire department is going through a lack of recruiting at this particular time. I also found out that there's a County agreement where fire departments now work with the City of Newburgh during the daytime or times when they need to help respond. So just to get a better understanding of emergency response.

MR. GALLI: Just a clarification on that. The gentleman that presented that letter,

1  
2 he's not a member of Cronomer Valley Fire  
3 Department. The gentleman that presented the  
4 letter -- first of all, the letter wasn't for  
5 public reading to the public. It was a public  
6 letter within the firehouse that this gentleman  
7 happened to get a copy of and read out. That's  
8 what that was. He's not a member of the Cronomer  
9 Valley Fire Department. Just so you're aware of  
10 that.

11 CHAIRMAN EWASUTYN: Maybe it's good I  
12 brought this out.

13 MR. GALLI: What happened is after the  
14 letter was read, a few days later I did see Tom  
15 Green, who was the commissioner of the Cronomer  
16 Valley Fire Department. It was unusual that they  
17 would air their problems out in public as far as  
18 manpower and stuff. We discussed it and he  
19 wanted to know who is this guy reading the  
20 letter, which I don't remember the gentleman's  
21 name.

22 CHAIRMAN EWASUTYN: Hyman or something.

23 MR. GALLI: He was just explaining to  
24 me the situation they're going through, volunteer  
25 help. A lot of companies have problems with

1  
2 daytime help. What they did is automatically  
3 when you have a daytime problem a lot of  
4 companies in the area will put Newburgh, they're  
5 a paid department, not volunteer, first response  
6 with them so when they're responding to a scene,  
7 as Pat will attest, Newburgh is automatically  
8 following them to the scene. We do it also. If  
9 we're going to a fire maybe during the day we'll  
10 have Winona Lake or Orange Lake follow us there,  
11 or New Windsor, or vice versa.

12 MR. HINES: Those agreements aren't  
13 new. Under the County mutual aid any fire  
14 company can call any other fire company. We have  
15 a reciprocal mutual aid agreement.

16 CHAIRMAN EWASUTYN: For the education  
17 of the Planning Board Members, I mean I didn't  
18 know about it, I just learned about it the other  
19 night, can you explain this agreement with the  
20 County?

21 MR. HINES: The County has a mutual aid  
22 system and all the fire departments have signed  
23 on saying we'll help you if you call and vice  
24 versa. There are dispatchers there just waiting  
25 to do that. When we call for help there's a



1  
2 system. It's run through the pager system. You  
3 call for certain fire departments for certain  
4 types of fires or help. Some of them have that  
5 automatic. Salisbury Mills and Washingtonville  
6 run to each other's calls no matter what the  
7 call.

8 MR. GALLI: Standing operating  
9 procedure.

10 MR. HINES: That's not something my  
11 department does.

12 MR. BROWNE: Like your company is out  
13 on a call, it's like an automatic thing where  
14 somebody else --

15 MR. HINES: If we have an active fire  
16 they'll answer the next call. You're supposed  
17 to, under the County mutual aid agreement, be  
18 able to handle two moderately sized incidents on  
19 your own. There's no definition of a moderately  
20 sized incident.

21 It's not uncommon to call for aid.  
22 Time of day I think is an issue for a lot of  
23 departments. We have a lot of people who are  
24 shift workers. I find it's a problem a lot for  
25 the departments who do medical calls. My fire

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

department doesn't do medical calls. You can generate a lot more calls for service when you start doing medical calls.

MR. GALLI: A lot of them just have a standard operating procedure set up for daytime use only. Like calls to the school they'll automatically respond, different companies. Structure fires, --

MR. HINES: Some types of calls.

MR. GALLI: -- car stuff. Anything major they'll automatically respond.

MR. HINES: There's a timeframe. If you don't call out of service within four minutes the County will dispatch the next department.

CHAIRMAN EWASUTYN: That was my sense of it after hearing that letter that I brought this in. There was something that just -- okay. Any comments?

MR. HINES: Was that the second Driscoll public hearing?

CHAIRMAN EWASUTYN: Yes. The gentleman, I think his name was Hyman.

MR. GALLI: He was the guy that ran for Town Board. Wiseman.

EMERGENCY RESPONSE

131

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: Thank you.

MR. BROWNE: I remember years ago I was recruiting to Storm King because I worked second shift. There were very few people available during the daytime. They like to find people that work off shift so they can get daytime people. I didn't go to any meetings because I was always working nights.

(Time noted: 9:03 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 15, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X

In the Matter of

STEWART SENIOR HOUSING  
(1997-07)

Memo from Gerald Canfield dated 9/27/07  
Clearing and Grading Permit

----- X

BOARD BUSINESS

Date: October 4, 2007  
Time: 9:03 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  
EDWARD T. O'DONNELL, JR.  
FRANK S. GALLI  
JOSEPH PROFACI

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

----- X

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: Dina Haines,  
there's one other item under Board business.

MS. HAINES: The next item is a memo  
dated September 27th from Gerald Canfield  
regarding the Stewart Senior Housing clearing and  
grading permit. Karen also had comments on that,  
which I did hand out before the meeting, which  
everyone does have.

CHAIRMAN EWASUTYN: At this point we'll  
turn to Karen and Pat Hines.

MR. HINES: I was able to speak with  
Jerry in between the work session. His only  
concern for that was, number one, it exceeded the  
one-acre threshold so it needed referral to the  
Planning Board under the Clearing and Grading  
Ordinance. He's concerned that adequate security  
be provided for reclamation should the project  
not proceed through to completion. I suggested  
to him a \$4,000 per acre security would be in  
order. I think the ordinance allows the Planning  
Board to set that fee. The project is very close  
to final approval. I think it's a procedural  
process that's holding it up.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. DONNELLY: You mean satisfying the condition. I think it was granted final approval.

MR. HINES: It has conditional final approval. I think the Health Department is the only issue. Jerry felt comfortable, he just wanted to make sure there was adequate security.

CHAIRMAN EWASUTYN: At \$4,000 per acre how many acres will be disturbed?

MR. HINES: I don't know the answer to that. I don't know if they did the calculation. Jerry said 2.3 in their application. Whatever that is.

MR. BROWNE: What is that intended to take care of?

MR. HINES: I just got the cover letter.

CHAIRMAN EWASUTYN: The applicant is looking to begin clearing and grading his property in preparation for final site plan. When Jerry received a clearing and grading permit from him -- it was kind of understood in our site plan approval process that we cover clearing and grading. Jerry is saying that he would not issue

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

a clearing and grading permit until a site plan is actually signed. That's why he's referring to us to set up a mechanism to protect the Town as far as --

MR. HINES: The Clearing and Grading Ordinance has a series of thresholds, this one being over the 1 acre which requires Planning Board review anyway.

MR. BROWNE: What I was trying to ask is what is that \$4,000 supposed to do?

MR. HINES: Reestablish grass. It's not going to do much more than that.

MR. BROWNE: That's adequate to do that --

MR. HINES: Yeah.

MR. BROWNE: -- for that purpose?

MS. ARENT: That's what 1 acre costs.

CHAIRMAN EWASUTYN: Karen, you had some comments in addition that you would like to see on this.

MS. ARENT: When there was a public hearing for that project some people came up, the neighbors, and they said during the Zoning Board of Appeals process the applicant agreed to plant



1  
2 evergreen trees before he starts any  
3 construction. I thought that those eleven  
4 evergreen trees that are on the plans and that  
5 should be planted before construction begins  
6 should be planted before the clearing and grading  
7 begins. I also thought all the notes on the  
8 plans regarding clearing and grading, all tree  
9 protection notes, all that stuff should be on the  
10 plans as well.

11           When we were discussing this project  
12 during -- you weren't here Pat, we noticed that  
13 the plans weren't stamped by an engineer. I was  
14 wondering if you should request the plans to be  
15 stamped by an engineer. The whole set of plans  
16 that were submitted weren't stamped.

17           MR. HINES: This is stamped, --

18           MS. ARENT: Okay. I'm sorry.

19           MR. HINES: -- the set I have.

20           MS. ARENT: The set in the package for  
21 John to sign, they didn't have an engineer's  
22 stamp.

23           CHAIRMAN EWASUTYN: Comments from Board  
24 Members. Frank Galli?

25           MR. GALLI: No additional.

1  
2 CHAIRMAN EWASUTYN: Cliff Browne?  
3 MR. BROWNE: Nothing.  
4 CHAIRMAN EWASUTYN: Ken Mennerich?  
5 MR. MENNERICH: No additional.  
6 CHAIRMAN EWASUTYN: Ed O'Donnell?  
7 MR. O'DONNELL: No, thanks.  
8 CHAIRMAN EWASUTYN: Joe Profaci?  
9 MR. PROFACI: No.  
10 CHAIRMAN EWASUTYN: Pat, would you,  
11 with the cooperation of Karen, prepare an  
12 outline, a summary, that we could submit to Jerry  
13 and he could refer on to Harry Lipstein as to  
14 what will be required?  
15 MR. HINES: Okay.  
16 CHAIRMAN EWASUTYN: Thank you.  
17 MR. HINES: The clearing and grading or  
18 the erosion sediment control security should be  
19 part of that.  
20 CHAIRMAN EWASUTYN: And there would be  
21 an inspection fee associated with that. Okay.  
22 Karen, would you be inspecting the  
23 landscaping also to see that it's properly  
24 installed?  
25 MS. ARENT: Yes. I would do it at

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

final. There's only like eleven trees that are going in. Well, I guess so.

CHAIRMAN EWASUTYN: Eleven trees and how much per tree for a six to eight-foot wide pine?

MS. ARENT: It's a couple thousand dollars.

CHAIRMAN EWASUTYN: I think for the benefit of all it should be inspected.

MS. ARENT: It was a very important point for the people that were here.

CHAIRMAN EWASUTYN: I think if they were planted properly this time of year they would be established.

MS. ARENT: That would be great.

CHAIRMAN EWASUTYN: Any additional comment from the Board Members?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion that we close the Planning Board meeting of October 4th.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by

STEWART SENIOR HOUSING

140

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So  
carried.

(Time noted: 9:10 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 15, 2007

