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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD  
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In the Matter of

RE-SUBDIVISION OF LOT #33 OF ORCHARD RIDGE  
(2008-21)

North side of North Hill Lane  
Section 23; Block 2; Lot 52  
R-3 Zone

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PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: November 20, 2008  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: RICHARD BARGER

----- X

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

MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of November 20, 2008.

I'd like to call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

MS. HAINES: The Planning Board has experts that will provide input in helping them to make SEQRA determinations. I ask that they introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

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

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

MR. COCKS: Bryant Cocks, Garling

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ORCHARD RIDGE

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Associates, Planning Consultant.

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

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

MS. HAINES: Thank you. I'll now turn  
the meeting over to Joe Profaci.

MR. PROFACI: Please join us in  
saluting the flag.

(Pledge of Allegiance.)

MR. PROFACI: If you three gentlemen  
could make sure you don't have cell phones that  
are on. Thank you.

MS. HAINES: The first item of business  
we have tonight is the re-subdivision of lot 33  
of Orchard Ridge. It is a public hearing. It's  
located on the north side of North Hill Lane in  
an R-3 zone. It's being represented by Richard  
Barger.

I'll ask that Ken Mennerich please read  
the notice of hearing.

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

Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of re-subdivision of lot number 33 of Orchard Ridge for a two-lot subdivision on premises North Hill Lane in the Town of Newburgh, designated on Town tax map as Section 23; Block 2; Lot 52. Said hearing will be held on the 20th day of November at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7:00 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."

MR. GALLI: The public hearing notices were published in The Sentinel on November 14th, in The Mid-Hudson Times on November 12th. The applicant's representative sent out seven certified letters and seven were returned. All publications and mailings are in order.

CHAIRMAN EWASUTYN: At this time Mr. Barger, can you make your presentation, please?

MR. BARGER: Yes. This is a proposed two-lot subdivision in an R-3 zone. The minimum

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ORCHARD RIDGE

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lot size is 15,000. Our minimum lot size is about 30,000 square feet.

It's got individual septics and Town water.

Originally these two lots were preliminary approved under the Orchard Ridge subdivision but when they went to the Health Department they couldn't get a septic system approved for this lot here. This lot was approved by the Health Department as one of the two lots. The reason this couldn't get approved is because it had a lot of drainage problems, and of course over the course of construction they put drainage along the road and all the way around this lot and cut off the underground running of water. Now we can get a septic system approval on this lot. We're ready to go to the Health Department once we get approval.

CHAIRMAN EWASUTYN: Okay. Final comments from our consultants. Pat Hines?

MR. HINES: We just had a comment that the drainage that was installed be provided with an easement to these two lots where it can be provided with an easement.

MR. BARGER: That's this easement here. The attorney, he'll submit the papers to the Town attorney.

MR. HINES: There were some bulk table items in Bryant's and I's memo.

MR. BARGER: It comes out to 103.76.

MR. HINES: Our other comment has to do with it needs Health Department approval after receiving preliminary.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Besides Pat's comments, the EAF just needs to be revised.

We're also going to need Town of Newburgh Highway Department approval for the driveway location.

MR. BARGER: He has a map and a letter from our office. We're just waiting for his reply.

CHAIRMAN EWASUTYN: Is there anyone here this evening who has any comments or questions as far as the proposed two-lot subdivision for the re-subdivision of lot 33 of the Orchard Ridge subdivision?

(No response.)

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ORCHARD RIDGE

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CHAIRMAN EWASUTYN: I'll turn to our  
Planning Board Members for their comments. Frank  
Galli?

MR. GALLI: No additional.

MR. MENNERICH: No questions.

MR. PROFACI: Nothing further.

CHAIRMAN EWASUTYN: Then I'll move for  
a motion from the Board to close the public  
hearing for the two-lot subdivision.

Let the record show that there were no  
comments from the public.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

At this time I'll turn to Planning Board Attorney Mike Donnelly to give us the conditions for preliminary approval.

MR. DONNELLY: Before final approval is granted the applicant will have to address the items in Bryant Cocks' memo, those that Pat Hines recited earlier, and obtain Orange County Health Department approval and approval from the Town of Newburgh highway superintendent of the driveway location. Before the map is signed you'll have to provide us with the drainage easement that I'll sign off that will have to be recorded, and there will be a requirement of payment in lieu of parkland fees for the additional lot that's being created.

CHAIRMAN EWASUTYN: Any comments from the Board Members as far as the preliminary approval resolution?

MR. GALLI: No, John.

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Then I'll move for a motion to grant preliminary approval.

MR. GALLI: So moved.

MR. MENNERICH: Second.



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ORCHARD RIDGE

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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. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So  
carried. Thank you.

MR. BARGER: Do we get a negative dec  
on this?

CHAIRMAN EWASUTYN: We did in order to  
set it up for the public hearing.

MR. BARGER: Okay. Thank you.

(Time noted: 7:09 p.m.)

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

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

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DATED: December 12, 2008

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

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In the Matter of

BRITAIN COMMONS  
(2003-20)

Route 207  
Section 97; Block 1; Lot 40.1  
R-3 Zone

- - - - - X

RESIDENTIAL SITE PLAN

Date: November 20, 2008  
Time: 7:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: TIM MILLER

- - - - - X

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

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BRITAIN COMMONS

MS. HAINES: The next item of business we have tonight is Britain Commons. It is a residential site plan located on Route 207, it is in an R-3 zone and being represented by Tim Miller.

CHAIRMAN EWASUTYN: Do you want to make your presentation?

MR. MILLER: Sure. Good evening, Mr. Chairman, Members of the Board. I'm Tim Miller with Tim Miller Associates. We're representing Ginsberg Development Corporation. With me here is Jennifer VanTuyl, our attorney, and Bill Evans, our GC.

We appeared before this Board in October to give you an update and refresh everyone on our project which is known as Britain Commons. We advised that we had made application in 2004 for a project that at the time was 288 dwelling units, single-family dwelling units. The Board had reviewed the application, had given some feedback and adopted a positive declaration and had asked us to prepare an Environmental Impact Statement. We had started that work in 2004, spent quite a bit of time studying the

1 site, and studying the traffic, and studying the  
2 utilities, and studying the physical environment  
3 to prepare that Draft Environmental Impact  
4 Statement, and we are now ready to come back to  
5 the Town with a Draft EIS.  
6

7 The site plan has undergone what I  
8 would term as very minor, minor modifications.  
9 The density is slightly lower. It went from 288  
10 units to 270 units. There was a slight change in  
11 the mix of duplexes, and town homes, and the  
12 number of multi-family condominiums, and the  
13 number of bedrooms. These are pretty modest  
14 changes from a numeric point of view. Basically  
15 the concept remains very much the concept.

16 We talked about our wish to complete  
17 the SEQRA process based on the concept, you know,  
18 largely similar to what had been before the Board  
19 before, and instead of processing the site plan  
20 application simultaneously and holding a public  
21 hearing simultaneously, to take this review  
22 through SEQRA and then at the conclusion of SEQRA  
23 and Findings come in with the site plan and the  
24 detailed engineering associated with that.

25 We also, in response to the Board's

question, had made a commitment to provide, you know, sufficient engineering in the way of utilities, and stormwater management, and concept plans for grading that the Board and your advisors would be able to, you know, look at the DEIS and look at the project and have a pretty good sense of what the physical and social impacts would be.

We went to your work session a couple weeks ago and presented this information to your advisor team, and we talked a little bit more about our concept for phasing the job. One of the things we talked about last month was given the circumstances with the economy today and the very tight credit markets, banks that are basically having difficulties, it's --

CHAIRMAN EWASUTYN: Do you have a copy of the phasing plan with you now?

MR. MILLER: Yes.

CHAIRMAN EWASUTYN: Why don't we do that. Why don't we make it as informative and educational as it was during the work session. We'll go through the narrative and at the same time we'll bring the Planning Board through that.

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BRITAIN COMMONS 15

Maybe you could also talk about and show them the minor changes and we'll discuss it as far as the modifications.

MR. MILLER: The reason for the phasing is it's practically impossible under today's circumstances for a bank to finance a project of this size. We just don't want to put that much money at risk. The concept behind phasing really is to provide the necessary infrastructure that will support the project, you know, and do what's necessary for the whole project in a way that makes sense but to develop it in phases so that it can be actually financed in phases and built in phases and the applicant can really accommodate what's happening in the market place. So this is one of the concepts that we developed for construction phasing.

Basically what it shows is phase I being the entryway onto Little Britain Road. Two of the major stormwater ponds will be cited here. These ponds take care of a substantial amount of the first part of the project. We would develop the clubhouse and the recreation facilities, the entryway features, the tennis courts, and there's

a pool here also.

Right, Phil?

MR. EVANS: Yes.

MR. MILLER: Because GDC projects really are intended to be a community, it's very important that that first phase include the clubhouse and those amenities so that people moving in are going to have access to those very early on in the process. And then phase I would involve the grading and development of this area of the site. You can see from the road system basically what this allows us to do is develop the road system in a way that continues to provide multiple points of access to phase I and phase II, you know, with the primary access out to Route 207, then it would be expected phase III and phase IV, which is located further to the east of the first two phases, will be built. Again, we've got loop roads through here that would accommodate multiple means of access to the phases. Improved infrastructure systems and the like in phase V will be located here along with another proposed stormwater pond. Phase VI would be located here.



One of the things we talked about at the work session was making sure that as we describe these phases and evaluate them as far as construction is concerned that we demonstrate, you know, that each one would kind of work on their own or in conjunction with the next one that was being developed as far as access, and utilities, and stormwater was concerned. So that's something that we understand is necessary in order to accommodate the phasing program.

The other thing that we talked about was making sure as the phases were developed they weren't done in such a way as to create an unsteady condition for people living internally in the site or people passing by on Little Britain Road. I think as you can see we've got -- you know, the first four phases are largely, you know, internal to the site, and I would expect that phase V would probably remain largely unaffected by the construction of the first four phases and would probably not be visible -- there would be no disturbance whatsoever that would be visible from Little Britain Road on phase V until it was actually being constructed which is what

would take place if the whole thing were done in one phase anyhow.

So that's the general concept. I don't know if there's anything you want to add, Phil.

MR. EVANS: There's one thing that was brought up a number of times which was emergency access and how it would be handled. I have since talked to our operational people and they have said that the emergency access up through here would be immediately put in in phase I. So this would go in while the first phase would go in and this would all be done at one time. So there would be an emergency access right here set to go and we would then use this as our main entrance up here.

MR. HINES: The change in the access along 207 there, that was due to -- there used to be two accesses.

MR. EVANS: There was one that we were considering a construction access here but we've decided to use the main entrance like we did at Fairways and other subdivisions where we come in right through the main entrance.

MR. HINES: The previous plan had one

across from Corwin Court. The other end of the plan there.

MR. EVANS: Yeah, there was one here. The only reason it was there is because that's where the sewer line was going to go. We were going to put a path on top of it. We decided not to do that. This is the lands that we own in the City. The suggested path for the sewer right now is -- you can see, excuse me -- it's right through here. We took that out.

CHAIRMAN EWASUTYN: So there are no additional modifications?

MR. MILLER: Not of any substance, no.

MR. HINES: The roadway network is -- the roadway network changed, too, internally on that plan versus the old plan.

MR. MILLER: Yeah.

CHAIRMAN EWASUTYN: Do you have a copy of the old plan just for reference?

MR. EVANS: No.

CHAIRMAN EWASUTYN: Ken, do you want to put up your copy? Ken Wersted has a copy.

MR. MILLER: This is the old plan?

MR. HINES: That's the new one. While

1                   you're putting that up, and maybe it's for  
2                   Jennifer VanTuyl, Cliff is not here tonight but  
3                   he's always interested in condominium  
4                   associations and how they're going to function.  
5                   Are you going to end up with five different  
6                   condominium associations due to the phasing? I  
7                   know that's something that if Cliff Browne was  
8                   sitting in the chair there he would be asking  
9                   you.  
10

11                   MR. EVANS: We're not sure about that  
12                   yet but in situations like this it's always a  
13                   possibility with an umbrella association over the  
14                   top of each one as they come on stream. That's  
15                   one of the ways we've handled it in the past.

16                   MR. HINES: Is there a discussion of  
17                   that in the DEIS?

18                   MR. EVANS: I don't think so. We can  
19                   do that. I think one of the major differences --  
20                   the only major difference is that we are -- in  
21                   the original plan we had units up in here, and  
22                   that would be this section. We couldn't purchase  
23                   that because we couldn't get clean title to it  
24                   so we've taken that whole thing off. That is the  
25                   major difference. The rest of this isn't --

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MR. MILLER: The cul-de-sac comes up in this corner and now that's a loop.

MR. HINES: There was a road on the other side of the clubhouse. That's been eliminated?

MR. EVANS: Yeah. We thought that should come out because of the topo in here.

MR. HINES: I'm just trying to point out to the Board what was changed.

MR. EVANS: I think the major change is we just took this cul-de-sac out. Other than that, this is basically the same plan.

CHAIRMAN EWASUTYN: Let's just revisit some of the conversation at the work session. You may be proposing for this to have on-street parking; correct?

MR. MILLER: Yes.

CHAIRMAN EWASUTYN: This may not be a SEQRA issue as it relates to the DEIS but overall I think it was information that was well discussed that the Planning Board should know about. There may be a possibility at a later point that you may want to look for a waiver as far as road widths based upon some planning

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issues that you have. I think the Planning Board should be part of that conversation that was part of that work session. You possibly eluded to the fact that maybe if you went for this waiver you might want to have support from the Planning Board in order to put more merit to your waiver. It's moments like this during the discussion that I wish the Planning Board would know about now so if they do arise six months, a year from now, or if the public hears of it the Board will feel confident saying well yes, I do remember hearing about that, because it is Members of this Board who will receive telephone calls from the public. Let's talk about these possibilities.

MR. MILLER: Sure. One of the things that's happened I think just in the last four or five years is there has been an increasing interest in, you know, green concepts, leadership and environmental design type of concepts, preservation of trees, reduced impervious surface areas, less stormwater management requirements and things of that nature. So in the process of kind of feeling this out internally, the architects of GDC and Martin Ginsberg have

suggested that with this need to find ways of making these projects greener and have less impervious surfaces, there's more management requirements. This converts to a number of things. It converts to higher water quality, less expenses to the homeowners association. It also allows the builder to, you know, have a better price point, you know, when it comes to the market place. In the last year we've seen substantial increases in the price of energy. Placement of asphalt, concrete are very energy intensive expenses. We feel that it makes sense to kill a couple birds with one stone if we can find a mechanism to reduce impervious surfaces. We talked about the possibility of road widths that would -- right now these plans show road widths of twenty-four feet. The State code requires now for multi-family projects of this nature twenty-six feet. We talked about the possibility of an alternative, having narrower roads. We talked about the possibility of, you know, if we did go to the twenty-six feet, of alternative ways of approaching the use of the twenty-six feet. That might include things like

bikeways or pedestrian ways, or we might have on-street parking. We talked about the possibility of having one-way street systems within the site which would give us, you know, substantial opportunity to reduce road widths, and also we think offer kind of a traffic calming opportunity so people wouldn't be racing up and down the very wide roads. We anticipate that these would be explored in the alternatives section of the Environmental Impact Statement. Really what we're looking to do is kind of get some of these ideas out on the table and vent them with the Planning Board and vent them with your advisors so we can kind of find what's going to work for everybody. We haven't made a commitment to any of those things. What we said is we'd like to explore them because we think they have merit for different reasons. It's our job to kind of present the pluses and minuses of those options and it will be your job to give us feedback and, you know, at the end of the day you'll get to decide.

So I think that kind of covers that topic in general.



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Are there some other things also, John,  
that we were interested in relaying to the Board?

CHAIRMAN EWASUTYN: I think more  
importantly what I was looking to do is what  
we're doing now, share the same information with  
the Planning Board that was discussed during the  
work session.

MR. MILLER: Good.

CHAIRMAN EWASUTYN: Again, the  
advisors, as you put that, make recommendations  
to the Planning Board but the Planning Board  
takes those recommendations and then they move in  
the direction that they feel best serves the  
Town.

MR. MILLER: We recognize the towns and  
builders are kind of dealing with sometimes  
opposing forces from a fire safety and access  
point of view. There's a desire to have, you  
know, unencumbered wide access and quick response  
times; and from the environmental and site  
planning and community liveability point of view  
there's a desire to have neighborhoods that feel  
more like traditional neighborhoods with narrower  
streets and trees closer to the edge of things.

1                   So, you know, we're trying to find our way here.  
2                   We're sort of in a new and different world than  
3                   it was just a couple years ago. You know, this  
4                   is part of the process.

5                   CHAIRMAN EWASUTYN: I'll take your  
6                   comments at this point, if any, from Frank Galli.

7                   MR. GALLI: I just had a concern about  
8                   when you took away the other entrance there  
9                   coming up from the City of Newburgh. Right now  
10                  you only have realistically one entrance way --

11                 MR. MILLER: Mm'hm'.

12                 MR. GALLI: -- because the emergency  
13                 access way in the back, when it snows that's  
14                 where all the snow is going to end up, in front  
15                 of that road, either from the condo association,  
16                 from Kahn's place or from your end of it on this  
17                 side of it. So that's going to be blocked any  
18                 time it snows. It's been done before on other  
19                 accesses that we've seen like that.

20                 Realistically you only have one way in and one  
21                 way out for the roadway. I wasn't very happy  
22                 when I saw you taking the roadway out coming out  
23                 from the City of Newburgh. You do own the  
24                 property so it wasn't a property issue. I really  
25

1 don't know what the issue is of why you  
2 eliminated it. It's a road. I don't think  
3 there's any trees where that particular part of  
4 the property is now.

5 MR. EVANS: It's wooded.

6 MR. GALLI: That part of it?

7 MR. EVANS: Over here, this is.

8 MR. GALLI: Okay. I mean you're  
9 talking a road --

10 MR. PROFACI: But that's not where  
11 you're showing the road.

12 MR. EVANS: We had looked at  
13 constructing the road here, and again this road  
14 we had.

15 MR. HINES: If you look --

16 MR. PROFACI: There's one across from  
17 Corwin Court. Almost exactly across from Corwin  
18 Court. Right there.

19 MR. EVANS: Yeah. I'm sorry. That's  
20 this one or this one. You're right.

21 MR. GALLI: And then that's gone. I  
22 had that concern.

23 Road widths, I mean I've seen projects  
24 -- I haven't seen a Ginsberg project but I've  
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seen projects -- Plum Point in New Windsor has narrow roadways. If you go in there and a car is parked on the side, you can barely get through with a car let alone a truck or van. When it snows it takes up a couple inches on each side. I mean the parking lot -- the parking down there is horrendous. They're small roads. There were a couple issues that I had on that.

CHAIRMAN EWASUTYN: That's why it's important. At least it was Ed Garling at the work session when you turned at one point and said Ed, do you have any comments, and that was Ed's comment. I noticed a change, which was fine, and that's why I want the Board to know about it. Initially Frank had some concerns about it. That was really the purpose of bringing this back. How you address it, and we'll later talk about, you know, the consultants working on maybe a slight revision to the original scope and then we'll be talking about it later. It's things like this we have to --

MR. GALLI: John, when you were here last I thought I asked about the easement coming off Pat Road and one coming through the condo

1 association. I think you said you had those in  
2 place, those easements.

3  
4 MR. EVANS: We have the Pat Road in  
5 place and we have resolutions from the Board for  
6 -- the two for the emergency access. We're still  
7 working on it. We met with them last night to  
8 work on details.

9 MR. GALLI: Where is the sewer then?  
10 Coming up 207?

11 MR. EVANS: No. The sewer is gravity  
12 right out this way into the City.

13 MR. GALLI: You have approval for that?

14 MR. EVANS: We're very close to having  
15 it.

16 MR. GALLI: Okay. That's the only  
17 issue I had.

18 CHAIRMAN EWASUTYN: Ken Mennerich?

19 MR. MENNERICH: On the phasing plan, is  
20 there going to be a section in the DEIS relative  
21 to that? I don't think that was in our original  
22 scope.

23 MS. VanTUYL: Actually the idea of  
24 phasing and construction sequencing, general  
25 sequencing of a project construction was in the

1 scope. I mean a project of this size, one would  
2 expect that there would have to be a plan because  
3 of course we have the stormwater regulations that  
4 don't allow a whole site to be open at one time  
5 anyway. What has happened is that because of  
6 what's happening in the financial market, the  
7 issue of phasing becomes even more crucial, and I  
8 think that's good. I think we're all focused  
9 much more on the ramifications of that, both in  
10 terms of overall management of the association,  
11 and that will be included in the document.

12  
13 In terms of how is the phasing going to  
14 go, I mean is there a reason why one phase should  
15 go first and the other should go later. As Tim  
16 said, we think that it's important to have the  
17 community amenities there right in the first  
18 phase so everyone knows that they're absolutely  
19 going to be in there. We had quite a lot of  
20 discussion at the workshop session, and I think  
21 talking about, as Tim mentioned briefly, the  
22 impacts visually. As we said, we have to make  
23 sure the visual impacts are addressed because we  
24 want to keep selling units and we don't want the  
25 people who just bought units and are in a phase

1 to be upset about things that are going on. So  
2 we are going to have a section in the DEIS that  
3 talks about the proposed phasing plan which was  
4 discussed. We will also be discussing  
5 alternative phasing plans, if there are any, of  
6 what boundaries could be modified and to what  
7 extent, and importantly what would have to be  
8 included to assure the functionality of each  
9 phase in terms of having a construction access,  
10 having an emergency access and having  
11 connectivity and not disturbing residents who  
12 have already been residing in the project.  
13

14 So in answer to your question, there is  
15 going to be a discussion in the EIS, and it will  
16 probably be more extensive than was originally  
17 planned, although the idea of discussing phasing  
18 was in the original scope.

19 CHAIRMAN EWASUTYN: Thank you.  
20 Anything else?

21 MR. MENNERICH: I'm just curious as to  
22 why phase III and phase IV -- it seemed like if  
23 the project was to end at the end of phase III  
24 you might be better off having phase III down  
25 towards the clubhouse and phase IV further away.

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Is there some reason why it was done in that order?

MR. EVANS: Originally we had looked at -- we wanted to make absolutely sure that this whole area was stable and that this was all paved and completed through here. That was the --

MR. MENNERICH: The emergency entrance?

MR. EVANS: Yeah. I mean it will be now anyway.

MR. MILLER: And what I don't know is, you know, earth movement and, you know, what makes sense from an earth balancing perspective as far as this goes. Our concern is we have to get a project engineer and, you know, answer that. I don't know the answer but, you know --

MS. VanTUYL: That's also part of the idea of alternative phasing plans too, to say if there is a reason, because of soil balancing, et cetera, why one phase really should go before another. We'll be fleshing that out. On the other hand if there's really no environmental reason to choose one order versus another, then perhaps those could be identified as alternate phasing plans that would have no impact. We'll



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be looking at all those issues.

MR. MENNERICH: I think part of the concern with the economy the way it is now is you can foresee a situation where the project gets started, phase I gets built, phase II maybe, but then all of a sudden, you know, nothing.

MS. VanTUYL: Right.

MR. MENNERICH: So you want to end up with the project looking as best it can if it's stopped at any given phase.

MR. EVANS: I think -- if I may, I don't know who visited our Fairways project over in Wallkill but we're basically in that position now. We have an entrance which we also use as a construction entrance. We drive through residential areas that are already finished. We're working in the back, and of course we're moving much slower than we did in the front. So I can see exactly what you're talking about at a job we are now continuing to work on, and I think you'll be pleased to see that there's no mud on the streets, it's very good looking, and the way it's setup and the way we phased it is working where all the residents, you know, are not

worrying about mud and dirt and environmental problems. So if you'd like, you know, it's right up the street.

MS. VanTUYL: I think you're correct in your broader point, which is that part of any phasing plan, you know, even in the best of markets, should be looking at the possibility, however remote, that if there is a period of time between phases, does the project work both in terms of functioning and in terms of aesthetic appearance both within the community and from the outside. So I think that was a point that was mentioned. I know Karen mentioned the point on the visual issues, and I think that is something that will be included in our discussion.

As for practical -- one other thing we said -- Mr. Chairman, one of the things we mentioned at the workshop, and we should mention it to everyone on the Board because we said we were going to when we came back, we had previously conducted a tour where we took Members of the Planning Board, the consultants and the Zoning Board of Appeals to see other GDC projects that had been in operation and established over a

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long period of time so people from the Town could see how the project works, and if there is any interest in doing that again we'd be very happy to do that. So the Board should keep that in mind.

MR. MENNERICH: The Wallkill -- Town of Wallkill project that you mentioned, are the road widths similar to what's being proposed in this project?

MR. EVANS: They're narrower.

MR. MENNERICH: They're narrower than this. Okay.

MR. EVANS: These are going to be twenty-six and ours are twenty-four and twenty-two. We have some one way.

MR. MENNERICH: Any on-street parking?

MR. EVANS: No. In that one we don't have any on-street parking because we have narrower roads. Near the clubhouse and that whole green area we have on-street parking. As a matter of fact, right in front of the clubhouse we have on-street parking, and in the green area we have on-street parking, and then we have some islands with parking right on the other side. I

1 think if you take a look at it you'll see all  
2 types of parking, not just in the driveways but  
3 you'll also see it in little parking areas. I  
4 guess there must be four or five different ways  
5 we created the parking.  
6

7 MR. MENNERICH: Okay.

8 MS. VanTUYL: I think Plum Point is a  
9 very tough analogy because there's very short  
10 driveways, if any, very narrow roads. There's a  
11 lot of factors coming together that cause  
12 problems there.

13 MR. HINES: I was talking to the  
14 Chairman. If you could maybe send the Board  
15 Members a small scale layout of the Fairways  
16 project. Not this project but Fairways.

17 MR. EVANS: Sure. I'll be glad to.

18 MR. HINES: You probably have that  
19 available.

20 MS. VanTUYL: The colored site plan?

21 MR. HINES: Just a small --

22 MR. EVANS: I can e-mail it to Dina and  
23 you can pass it out, or would you like color  
24 ones?

25 MR. HINES: You guys keep talking about

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it and they'll have it in front of them to look at.

CHAIRMAN EWASUTYN: Frank, what would you prefer?

MR. EVANS: I'll send you a package. I'll send you a sales brochure in case you're interested.

MS. VanTUYL: They have to reside in the Town of Newburgh to be on the Planning Board.

MR. HINES: Summer homes.

MR. PROFACI: I understand why you said that that road came out, because you no longer are using it to bring the sewer in. Is there any reason why that road can't still be put in?

MR. EVANS: Cost. I hate to be blunt about it but right now we're trying to say how do we save a dime.

MR. MILLER: I think also --

CHAIRMAN EWASUTYN: That's a good, honest answer. I mean I think those are the kinds of -- that's the kind of conversation I think that's really meaningful at a planning board meeting. You know, we don't know it and it's just common sense. I think we're common

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sense people and that's what I find the meaning of a planning board meeting is all about, just to talk about real life issues and why and why not, not to try and second guess. I'm not good at guessing. I'm not even good at coming up with questions. I'm a better listener and learner and I was hoping you would educate us. That's really the purpose of it, Jennifer, in my opinion.  
Thanks.

MR. EVANS: Thank you, Mr. Chairman.

MR. DONNELLY: Just remember one of the issues with the multiple access points had to do with fire response time. I know there's been some rough stop watch driving stuff. Make sure that's updated to reflect the difference if this is going to --

MR. MILLER: Also John, on the question of the access, you can see that there was a configuration here that had a small stormwater management plan located here. Now we have a longer, wider plan that sort of provides a little bit of an obstacle to getting a road through there. That's not to say it's not impossible but it does, you know, sort of change the way that

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that whole stormwater system is set up.

CHAIRMAN EWASUTYN: Any additional  
comments from the Board Members before we hear  
from our consultants?

(No response.)

CHAIRMAN EWASUTYN: Pat, since you're  
the closest one --

MR. HINES: We really were just waiting  
to see this tonight. I think Bryant can take the  
lead here. He's gone through the scope and  
identified the changes he reviewed with his  
comments. We're waiting for the information. We  
wanted to see what they had to present. Probably  
Bryant has the lead on this.

CHAIRMAN EWASUTYN: Bryant, please.

MR. COCKS: I looked through the  
scoping document just to see what would have to  
be revised due to the new site plan. It wasn't  
major stuff. I have a list over here. I sent it  
out to Tim today. It was mostly just references  
to new regulations since the scope was adopted,  
including the design guidelines, the buffering  
and setback law, the 2008 fire code, and then  
just a couple other things. I know you have to

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add a website address on the cover sheet. That wasn't required back when this was approved. It was just about ten minor things that need to be changed in the document. I know you guys are probably going to address the phasing in the DEIS anyway. It just wasn't in the scoping document so I just made note of that for the Planning Board so they're aware of it.

MS. VanTUYL: We would be planning to put all of those concerns and the website address and all the other things we have to in the document whether the scope is amended or not. If the Board feels more comfortable putting that in, we certainly have no objections.

CHAIRMAN EWASUTYN: What we were discussing at the work session, and Mike will add to it I'm sure if I missed something that was said, our consultants will work on what we'll call the revised scope based upon Bryant's comments and send them to you. If you're in agreement then we'll ratify that revised scope under Board Business realizing once we complete that action then we would be ready to receive your -- the DEIS, which I believe is --



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MS. VanTUYL: We're almost there.

CHAIRMAN EWASUTYN: We're almost there.

That's what we wanted to do, bring it forth and discuss what was discussed at the work session. When the few changes our consultants had sent you come back it will be ratified under Board Business. I'm sure you'll contact Dina as far as the time for bringing in the DEIS.

MS. VanTUYL: That sounds very reasonable.

MR. MILLER: Thank you.

CHAIRMAN EWASUTYN: Mike, do you want to add anything?

MR. DONNELLY: I think that's an accurate way to do it. I think it is helpful for us to have the revised scope because one of the things we'll need to do when you submit the DEIS is to see whether or not it addresses the scope in a manner that is ready for public comments. That document has a real purpose.

MS. VanTUYL: It's good bookkeeping.

CHAIRMAN EWASUTYN: You'll be sending us the color renderings, the Fairways is it?

MR. EVANS: Yes.

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BRITAIN COMMONS

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CHAIRMAN EWASUTYN: The Board will keep in the back of their mind, whether we do it as a Board and drive out to Middletown or we take advantage -- I think let us first have the rendering and then we'll get a sense of if we want to get out there.

MR. EVANS: Thank you, Mr. Chairman.

CHAIRMAN EWASUTYN: If we don't get to see you between now and next week, happy Thanksgiving.

MS. VanTUYL: Happy Thanksgiving to you, too.

One document I had sent to Bryant was a copy of the variances that were issued.

CHAIRMAN EWASUTYN: Jerry.

MS. VanTUYL: I have copies for everybody tonight.

CHAIRMAN EWASUTYN: Please. Thank you. A copy of the variances that were issued.

Jerry, why don't you discuss that for one moment.

Jerry picked up on those variances.

MR. CANFIELD: At the work session we had discussed the variances, not in length and

1 detail as to what was actually granted, but I  
2 raised the question of because of the time that  
3 has lapsed, and we had a discussion as far as the  
4 six-month period without actually action being  
5 taken, there may be a need for you to go back to  
6 the Zoning Board. If there is just a need to  
7 renew what has been approved, I think that will  
8 need to be addressed, or if there are any  
9 additional variances that may be needed. In any  
10 event, in both cases there's a strong possibility  
11 you will need to address that at some point.  
12

13 MS. VanTUYL: Right. Well one of the  
14 things we did specifically address at the time  
15 the variances were issued is there's a specific  
16 provision in the resolution itself that granted  
17 an interpretation that the six months would --  
18 which as you know is the expiration in the Town,  
19 that that six-month period would begin to run  
20 upon the signing of the final site plans, which  
21 qualified the project for immediate issuance of  
22 building permits by the Planning Board Chair.  
23 Upon the commencement and diligent prosecution of  
24 construction within the six-month period after  
25 the signing of the site plans by the Planning

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Board Chair, no further extension of the  
variances would be required under 185-55. So  
that issue has been addressed. I agree with you  
there may be something in the new site plan that  
might require an additional variance or something  
like that now that we have the issue of some new  
laws, the new buffer law, the new road law,  
et cetera. We'll be mindful of that. That's a  
very good point. I brought copies, I e-mailed  
them to Bryant, but this way we'll pass them  
around and everybody can have them in case  
everybody is up late at night and wants to --

MR. PROFACI: Thank you.

MS. VanTUYL: Thank you very much. We  
appreciate your time.

(Time noted: 7:47 p.m.)

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

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

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DATED: December 12, 2008

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

- - - - - X  
In the Matter of

GATEWAY COMMONS  
(2008-28)(2008-29)

NYS Route 17K and Skyers Lane  
Section 89; Block 1; Lot 85.22  
B Zone

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CONCEPTUAL SKETCH PLAN  
THREE-LOT SUBDIVISION

Date: November 20, 2008  
Time: 7:47 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: TIM MILLER

- - - - - X

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

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GATEWAY COMMONS

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MS. HAINES: The next item of business we have tonight is the Gateway Commons. It is a conceptual sketch plan for a three-lot subdivision located on Route 17K and Skyers Lane. It is in a B zone and represented by Tim Miller.

MR. CAPPELLO: Good evening. I'm John Cappello with Jacobowitz & Gubits. I'm here with Tim Miller, John Caracus, John Kinneen, Phil Grealy. We're the project team. We're going to be brief tonight. I just wanted to really introduce this and turn it over to Tim really quickly.

I'm going to show you a map and ask you to ignore most of it. We're here tonight to discuss the Gateway Commons project that's located on the south side of 17K at Skyers Lane just across from the intersection -- a little bit east of the intersection of Racquet Road and Player's Gold's Gym on the south side.

Really what we're here tonight and what we've applied for -- I mentioned Gold's Gym, not the other side.

MR. HINES: We talked about that at

work session.

MR. CAPPELLO: Really what we're here tonight to discuss is what we're actually applying for. I think based on some of the comment letters and some of the reviews there was a little confusion. What we're looking to do now is build a 69,000 square foot -- site plan approval for a 69,000 square foot retail facility, a supermarket, and then build the access road and create two lots over that. Usually when we would apply for something like that we would submit it, the Board would begin the scope, and as part of your scope under SEQRA you would say you need to examine the cumulative impacts and potential development of the rest of the site. What we tried to do for an analytical purpose is anticipate the types of uses that could be accommodated on the rest of the site. That was the plan that was presented to you, once again, for conceptual and analytical purposes and not that we want an approval. As we go forward with the scoping, with the EIS that we're sure will be required for this project, we will analyze the parameters of development for the



1 rest of the parcel using those potential uses as  
2 touchstones. But we're really not here looking  
3 for approval of that, although we would like the  
4 Board to, you know, understand the concept as we  
5 go through SEQRA.  
6

7 We're here tonight asking the Board to  
8 initiate the SEQRA process, after Tim does his  
9 presentation, just to get it out for the Board  
10 for beginning the notice of intent for lead  
11 agency with what we have and then begin the  
12 process of pos dec'ing it, doing the scope and  
13 identifying the issues you want addressed. We did  
14 submit a potential scope. If we haven't we will.  
15 And through that process we can begin to fine  
16 tune the potential uses in the areas of  
17 development for the remainder of the lot.

18 Having said that, I'll introduce it  
19 over to Tim who can explain to you a little bit  
20 more the thought process of coming up with the  
21 development.

22 MR. MILLER: Hi again. As John  
23 indicated, this is a proposal for a three-lot  
24 subdivision, commercial subdivision. This is an  
25 82 acre site -- 84.4 acre site. It's located at

the corner of New York State Route 17K and Skyers Lane. This is 17K and this is Interstate 84.

We're proposing a three-lot commercial subdivision. This is a site that's in the B zoning district. One of the memos indicated it was IB. It is a B district. We confirmed that.

With the three-lot subdivision there's a proposed Town road that takes its access from Route 17K. That road eventually, we expect, will become a boulevard that will service the balance of the property.

Along with the three-lot subdivision we've also submitted an application for a site plan approval, and this is shown on lot 1 ,which has a 69,000 square foot supermarket with parking in the front. This is a very traditional supermarket layout. We have reserved a retail area in the front that's shown on the concept plan for the site. We expect that retail area would provide store frontage along Route 207 -- along Route 17K with the buildings located along the frontage, and parking located to the rear of that. So basically you've got a retail facility that does not have direct visibility to the

parking areas along Route 17K which we think is consistent with some of your design guidelines for commercial uses.

This is not a retail project like The Marketplace. This is really a piece of property that is situated along I-84. It's got pretty good visibility from I-84. The concept plan that we've been thinking about for some time is really oriented towards the site and its location near Stewart Airport, where we believe the future retail node in the Town of Newburgh is really going to be focused along the Route 300 corridor. You're going to have about a million-and-a-half square feet of retail space in that area and it's proximate to the highest density of residential population in the Town. This is really not that kind of site. We don't believe, based on our investigations into the marketplace, retailers are going to come to this property, save a community shopping center, something like a supermarket which has been interested in the marketplace, and then some satellite stores and restaurants that would be ancillary to the supermarket use. We know that there's interest in

the site for a supermarket. Again, because of the nature of the economy right now, we thought it prudent to get this project started, to really take advantage of the marketplace and this commercial use of the site in the Town of Newburgh, and then as we're able to develop a market, attract smaller tenants for the retail activities that are proposed largely on lot 1.

So again, the application is a three-lot subdivision and a site plan for a 69,000 square foot supermarket.

Now, because we need to go through a SEQRA process, and we don't want to go through segmentation or not give the Board the opportunity to really take a look at the rest of the property, we wanted to come up with a plan that we felt was sort of a reasonable worst-case scenario for use of the site. I don't want to suggest that the site plan has not been invented and thought out. We spent the last twelve months looking at possible configurations for the plan.

The concept plan we've submitted to you does not at the present time show grading. The site plan does take into account the topography

of the property. It does have multiple levels in connection with the various uses that are being considered for the balance of the property.

This concept plan basically shows four hotel uses which are located here. They would have good visibility to the interstate so people that are traveling through the area or are basically taking advantage of Stewart Airport are going to see these hotels. Each of the hotels kind of has a little bit of a different marketing orientation in terms of extended stay, shorter stay, and a use that has meeting facilities and things of that nature. So these are shown in blue. Then the concept also has a restaurant that would be centrally located, and it would be close enough to all of the uses to provide an easy pedestrian access. The site does have pedestrian walkways throughout. The two buildings here, on either side of the restaurant, would be proposed offices. There's proposed offices located here.

In the rear of the site this concept plan shows some recreation types of uses. There's an entertainment center building that

1                   GATEWAY COMMONS                   54  
2                   could support internally an arcade, possibly  
3                   other indoor type recreation uses, batting cages.  
4                   There could be any number of uses that would be  
5                   able to take advantage of that. There's  
6                   mini-golf also located in this area, and in the  
7                   back there's a small go-cart track.

8                   So this is a concept. It reflects uses  
9                   that we believe make sense for the site. We do  
10                  not have tenants for this. We are not proposing  
11                  this as an actual application but we do believe  
12                  that it represents the development that could  
13                  take place for purposes of planning things like  
14                  infrastructure, traffic improvements, traffic  
15                  mitigation that might take place on and off site,  
16                  issues relating to visibility, visual impacts,  
17                  water and sewer demands and things of that  
18                  nature.

19                 We do not expect that we would be  
20                 asking your Planning Board for any conceptual  
21                 approval of this. As we go through this process  
22                 we want to make sure that we've given the  
23                 Planning Board the opportunity to vent out the  
24                 possible issues. We want to make sure that we are  
25                 going to get feedback on possible alternatives to

this concept that may be desirable. Obviously we can say we would like to do this but the marketplace is the marketplace, and what we've found is that with our best desires in hand we've got to sign up tenants for a project of this nature. So we are very much open to and desiring to get input from the Board and its advisors as we go through the SEQRA process on possible configurations for the use, but I want to be very clear; we're not asking for a conceptual approval of this. We want to be able to look at the big picture issues, traffic, stormwater management, water and sewer, real estate taxes, demands on community services, visual impacts, so that we can come up with findings at the end of this process that sort of set forth some parameters, just like we did in The Market Place project, set parameters as to how the site would be developed. Presuming we can stay within those parameters, we can move forward with a plan that the Board can then act on with site specific site plan application. We want to do this so the user, a commercial user who wants to come to the Town of Newburgh, can come in and know they have a

1 process that's been set up. As long as they  
2 adhere to it with regard to setbacks, and  
3 buffers, and landscaping, traffic improvements  
4 and things of that nature, they can get a shovel  
5 in the ground in a reasonable period of time.  
6

7 That's the concept we've been thinking  
8 about in terms of process. I think I'm going to  
9 stop there. We'd be interested in hearing your  
10 comments or any questions you might have.

11 CHAIRMAN EWASUTYN: I'll raise a  
12 question. Can you take us back six months, a  
13 year ago when you had a meeting with the  
14 residents of the contiguous property. What  
15 concept plan was presented to them? What were  
16 their questions? What were their concerns? You  
17 know, I think that's something we're going to  
18 have to discuss very early on.

19 MR. MILLER: Sure.

20 MR. CAPPELLO: We actually happen to  
21 have -- since we decided to go with the board,  
22 it's not a Power Point presentation --

23 CHAIRMAN EWASUTYN: John, John, John,  
24 John. Can we stop at that point? Our office is  
25 open five days a week from 8:30 to 4:30. This



has been on the agenda for approximately how many weeks?

MR. CAPPELLO: Several. I'm just making the point that we have --

CHAIRMAN EWASUTYN: John, you and I share a routine together at a gym, and we know from -- you're there every day at a certain time, you workout, you have a set routine. We have a set routine here. You want to make a presentation, you let us know days in advance. It's not a half-assed operation. So I want to end it right there. I don't want to go back and forth on that issue.

MR. CAPPELLO: The point I was making is that the board we brought in happened to have on the back of it the concept plan that we submitted to the neighbors. That was the point I was making, not to make --

CHAIRMAN EWASUTYN: I think we should discuss that.

MR. CAPPELLO: And it shows here the original thought and how we have started to revise and address the concerns of the neighbors and progress with the plan.

Originally there was some warehousing shown backing up. This is going to be flex warehousing. There was a big concern regarding lights, regarding visibility there, regarding parking along the rear towards the units. We thought it was a low-impact, low-traffic use that would be suitable for there. That was a big area, you know, of concern by the neighbors and that was removed from the site.

There was also some office and storage shown along the rear where we now highlighted the entertainment use. The reason that was done, once again, is to take away what people had concerns about, boxes or, you know, garbage being located there and traffic use. So we put a more family friendly type of use there that would be a better transition to the neighborhood, once again conceptually to take that away, to take away some of the parking and some of the disturbance, to have a lower impact area.

I also think at that point there was mention that there was a park -- a parcel adjoining here that the Town owned for park purposes, and that entertainment use here might

1                   be compatible if that was ever developed for a  
2                   park. So we did -- there was talk about coming  
3                   up with more of a sense of place. So if you look  
4                   at the design coming in here, it's a little more  
5                   boxy when we came up with the concept plan that  
6                   we presented. Now you see some of the circles,  
7                   some of the sidewalk, the beginnings of the  
8                   attempts to --

10                   MR. MILLER: This is John here. He's  
11                   the architect who has been retained.

12                   I also want to mention after the  
13                   meeting with the neighbors you can see that the  
14                   concept for that area of the site has changed.  
15                   We've also shown on one of the drawings a  
16                   possible residential use in that area which is  
17                   not consistent with zoning, but we are interested  
18                   in the Board's thoughts on that.

19                   John has developed, you know, a couple  
20                   dozen plans for this site over the past period of  
21                   time as we've kind of walked through and decided  
22                   the best possible way of configuring this.

23                   John, why don't you talk about your  
24                   thinking in terms of concept.

25                   MR. KINNEEN: Sure. When we met with

the neighbors this plan, as John mentioned, of the things that were closest to them we began to mitigate with the items we have, some lower two-story office buildings which are designed to have residential -- like the architectural components to them. Some of the entertainment uses. The storage building in the back was a five or six-story facility. The office building, because of its size, I think was at a three or four story. These are at two but we get approximately the same amount. This is slightly larger but we get approximately the same amount of area.

With the retail component -- on the retail component, the supermarket was actually in this location facing the boulevard. One of the attempts was that it was kind of turning its back and to the side and it was facing the boulevard, but we're seeing that the supermarket anchored based retail center should really be more oriented towards 17K, and that's why we now faced the building towards 17K. There are other ancillary shops along the front. This is another restaurant, a fast food, there's a bank, some other small retail. Then as Tim and even John

both mentioned, the boulevard, which had a great beginning to it, just sort of petered off and died. There was nothing -- no exclamation point at the end. So because of that the end point was here, which was also a return point. And then we also found out through some market research that a full service type of hotel would be a good candidate for this particular location, and as such that type of kind of grand facility would be suited nicely at a grand ending point for this boulevard which takes one all the way in. As Tim mentioned, some of the -- less is a bad word but I can't think of another one. Some of the other types of hotels, the extended stays, the limited service, have some good orientation back towards the highway being that this is an intersection, it's the intersection of an interstate but another road with the airport. Once again the restaurants are spread out. Because this has a restaurant, this has a restaurant, this has a restaurant, here is one. Depending on what pocket you're in, you may not be that far from some eating establishment.

We scaled it down from four office

1 buildings down to two because on the other plan  
2 it was much, much tighter in here than what is  
3 presently shown.  
4

5 So that's about where we are. That's  
6 how we got to this point.

7 CHAIRMAN EWASUTYN: Let me turn to the  
8 Board Members for some of their questions. Frank  
9 Galli?

10 MR. GALLI: He actually explained it  
11 pretty good as far as the concept of it, the  
12 layout. My biggest concern was the neighbors  
13 because we are going to hear from them. They're  
14 going to pack the house the night of the public  
15 hearing. We're going to want to have all the  
16 answers we can.

17 MR. CAPPELLO: I can just relate to the  
18 Board that at that meeting we did take their  
19 e-mail information and some of their addresses.  
20 With the Board's permission we would be willing  
21 to keep them apprised as we're on agendas, you  
22 know, throughout the process so there's no  
23 misunderstanding, so they can see the process  
24 unfold and we can -- you know, it's up to you as  
25 to what type of public participation but at least

1                   so there's no questions or concerns that  
2  
3                   something was on an agenda and we didn't call.  
4                   So we would be willing, you know, to work with  
5                   the Board to keep them notified and to keep them  
6                   in the loop.

7                   CHAIRMAN EWASUTYN: I have a question  
8                   for you. I understand what you're saying. What  
9                   confuses me on that is you took the lead to meet  
10                  with the public, you met with the public, you're  
11                  going to e-mail them, and now you're coming back  
12                  to us to say what is it you want us to do as far  
13                  as connecting to the public. I don't seem to  
14                  really follow that. I think what I'm saying is  
15                  if you took the initiative, then you have the  
16                  responsibility. Similar to the public hearing  
17                  that I went through the other night that you had,  
18                  and I'm learning from this whole process, you  
19                  take the lead in establishing these meetings, you  
20                  really don't get the planning board involved but  
21                  you just move into the community and do it.

22                  We've only had one other similar one to that, and  
23                  it was called Driscoll, where the applicant came  
24                  before us first, presented his plan, asked us for  
25                  any questions or comments we may have and set up

1                   this meeting. So you take a whole entirely  
2                   different approach. Speaking for myself, I think  
3                   the responsibility is in your hands because you  
4                   initiated it.

5                   MR. GALLI: That's what I was just  
6                   going to say.

7                   MR. CAPPELLO: We'll assume that  
8                   responsibility. I just don't want the confusion  
9                   of folks to come in and think it's a public  
10                  participation meeting. We will notify them, I'll  
11                  copy you. It's a chicken and egg thing. As we  
12                  went through this process, as seen a lot of times  
13                  when we go to a planning board and the public  
14                  comes in, they have the feeling that everything  
15                  was in the bag before they even came. So that's  
16                  -- you know, sometimes you can't win for losing.  
17                  These have been attempts to say before we even go  
18                  into the Planning Board we at least want to hear  
19                  your concerns about development in this area so  
20                  we can begin to incorporate them. That was  
21                  hoping to relieve you of some of the -- I hear it  
22                  sitting on the other side of the Board, it's like  
23                  we never have a say, so we have attempted to  
24                  assist you in that process. I don't think there  
25



is a great answer as, you know, one way is better than another.

MR. SMITH: Just to clarify, at the meeting with the neighbors, the plan wasn't as detailed. It was areas where we described the warehousing and the retail, the hotel. After that we went through maybe about a five to ten-minute presentation, and for the next hour, hour and fifteen minutes each resident stood up and voiced their concerns. Some said listen, I live here -- came up and said listen, I live here, I have this concern. I took notes the entire night. I made ten pages on an easel. I kind of solidified that down to probably about -- there were twenty issues and the basic theme of all those issues really came down to what's the density here, what's the traffic going to be like, and, you know, how do we connect. Those were their issues. It was really more of -- because of the proximity to that neighborhood, it wasn't really trying to shortcut or trying to get some momentum behind with the residents but I think it was an outreach program to try to get some of their comments in while we were in the

concept plan process. That's what we were trying to achieve.

I think based upon a lot of the comments, this plan begins to take into account a lot of the comments, if not all of them, that were raised during that meeting. That's all. I wanted to make the Board aware we reached out to them, we got their opinions and we incorporated it into the plan.

MR. GALLI: That's all I have.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think I heard you say in the DEIS you'll be covering the total impact of the conceptual project, right, as far as traffic and drainage and everything, sewer and all that. You'll cover everything.

I guess in developing your assumptions for this, like for traffic let's say, what is the assumption going to be about the development of Stewart? We've seen Stewart Airport basically being scaled back. Every year it's been less and less traffic out of Stewart. The new entrance to Stewart is now in service. The traffic that's going to be generated for hotel uses, conference

1                   centers and that type of thing I guess would  
2  
3                   hinge in part on what happens with Stewart. So  
4                   has there been any thought on how you're going to  
5                   project that information for this project?

6                   MR. GREALY: Phil Greal. Well, in  
7                   terms of hotels and the conference uses, we plan  
8                   to use generic numbers for that, okay, and it's  
9                   based on occupancy and usage. Now in terms of  
10                  where they're arriving from is tied into what's  
11                  going on at Stewart. In terms of the actual trip  
12                  generation numbers, we would use the ITT trip  
13                  generation, and for each type of hotel there's  
14                  separate databases. Ken can expand on this.  
15                  There's databases for the extended stay versus  
16                  the conference center. We can get a pretty good  
17                  handle on the trip generation. The assignment of  
18                  those trips to the network somehow gets tied into  
19                  what happens with Stewart and the surrounding  
20                  area. Pretty much for every one of the uses that  
21                  John and Tim mentioned, we can get a very good  
22                  handle on each use, what the trip generation is.

23                  MR. MENNERICH: But the background  
24                  traffic level --

25                  MR. GREALY: Outside of this project

1                   you mean what's going to happen in the area. I  
2                   mean part of that is, you know, based on the  
3                   projections that the State had done for the  
4                   airport. So there would probably be two  
5                   scenarios, one with a high development internal  
6                   and one with a more reasonable scenario based on  
7                   what's going on now. It is somewhat -- I mean  
8                   for this site we can really get a good handle on  
9                   it, but the external, you know, effects, there  
10                  will probably be at least two scenarios there.

12                 MR. WERSTED: If I can just add to  
13                  that, too. It may also be a timing issue in the  
14                  sense that right now the economy and perhaps the  
15                  scaling of Stewart is much different than what  
16                  was envisioned, you know, four or five years ago,  
17                  but four or five years from now it may be back on  
18                  the upswing where the plans have changed and --  
19                  right now they're scaling back but in four or  
20                  five years maybe they're ramping back up. So to  
21                  some degree you can make assumptions as to what's  
22                  going to happen in the future based on that  
23                  crystal ball. As Phil said, there may be  
24                  something where based on the trends of this past  
25                  year things may be scaling back but the trends of

1 the past five years may be, you know, still  
2 ramping up. So by the time, you know, this  
3 project starts to come online we're back on that  
4 ramping upside of things.

5  
6 MR. MENNERICH: But the development of  
7 several scenarios -- one or two or more scenarios  
8 of the area background traffic level should give  
9 us a feel for what the range of impacts are going  
10 to be I take it.

11 MR. WERSTED: Yeah. There's certainly  
12 -- even within the high and low, you know,  
13 scenario, there still could be other projects  
14 that aren't even on the radar that haven't been  
15 scaled back because they haven't been thought of  
16 yet that may, you know, come in to play in the  
17 next several years. You know, when those things  
18 come up then they'll be looking to find out where  
19 this project stands and where, you know, Stewart  
20 Airport in that current stage stands and  
21 incorporating those into their forecast.

22 MR. HINES: That's probably how  
23 Northeast Corporate Park was developed. It's  
24 similar to this, I believe, when they did the  
25 DEIS and had their projections of what users, not

1 knowing what users were going to come. I think  
2 they had a lot more office in there originally.

3 CHAIRMAN EWASUTYN: You're currently  
4 working on a project in that same section of Town  
5 as Northeast; correct? You're doing the  
6 environmental work for it?

7 MR. MILLER: I don't think so.

8 CHAIRMAN EWASUTYN: I thought someone  
9 said you were doing something for \$650,000.

10 MR. MILLER: I wish I was.

11 MR. GREALY: I know where it is. I  
12 don't know if I'm doing it yet.

13 CHAIRMAN EWASUTYN: Joe?

14 MR. PROFACI: I'm curious to know what  
15 sort of a timetable you would be working on. You  
16 said the supermarket would be first. How would  
17 you go about putting in the rest of those  
18 structures? On an as-needed or as-called-for  
19 basis? What if you got that full-service hotel  
20 first, would that go in first and the rest of the  
21 road would be built all the way back and the rest  
22 stay open until you found further tenants? How  
23 would you do that?

24 MR. MILLER: Well first of all we need  
25

to get site plan approvals on anything, you know, that we want to build. If we have successful negotiation with the tenants we're going to, you know, immediately come to the Town with a request for site plan, and I think the details of the concept will start taking stronger shape. And, you know, it is market driven. No one will finance these projects without, you know, a letter of intention or even, you know, a signed agreement. So things will fall into place in a very clear way. If a tenant comes and they want to occupy the back of the building first, that road will go in, that boulevard will be developed and all the infrastructure will happen. You would get a site plan application that would detail that, and you'd see it first probably. If we have the possibility of tenants or we decide we want to pursue speculatively a site plan for the office, we may also do that to accompany it. I expect that, at least in the near term, it will be tenant driven because you just can't get money to construct without that happening. You know, very few builders really have the pockets to be able to do it on their own.

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Does that answer your question?

MR. PROFACI: Yes, it does. Please do that because we have plenty of vacant office space around. I don't think we need any spec office buildings.

MR. MILLER: I don't think anybody will finance them, so --

MR. SMITH: I can tell you we met with the residential neighbors, we also had a dialogue and a meeting with the Port Authority and discussed the overall plan and discussed what their plans are. In fact, I have another meeting on Monday in New York with the Port Authority with their -- on their master plan team. I was talking to them about what their plans are for the overall master plan which they're revising and revisiting. So part of this is specifically designed, with the mix of the hotel, the hospitality, the office, to compliment the hotel.

As far as design, Tim is actually right. This is a timeline, it's market driven, and it could be ten, it could be fifteen years before the last hotel is built as the market will demand it, the first one we build and what style



1 we build, whether the extended stay or full  
2 service with the catering facility. That's what  
3 will drive it. We are in dialogue and  
4 specifically trying to design this to compliment  
5 both the residential neighbors, address their  
6 concerns, as well as doing it in concert with  
7 what the Port Authority is planning.

8  
9 CHAIRMAN EWASUTYN: Do you have  
10 someone, a lease agent, working on the project  
11 now, looking to locate the proposed tenants and  
12 see what their needs are?

13 MR. CAPPELLO: Yes.

14 CHAIRMAN EWASUTYN: So basically you're  
15 putting out feelers based upon --

16 MR. GERAMIAS: We would --

17 CHAIRMAN EWASUTYN: For the record,  
18 your name?

19 MR. GERAMIAS: Michael Geramias, I  
20 represent the development group. We retained  
21 Collins International based out of Connecticut  
22 for the retail and teamed up with various --  
23 various offices in the United States which  
24 specialize in retail restaurants and hospitality.  
25 They're doing the reports now to support the

1                   hospitality and the facilities as well. As a  
2                   matter of fact, they're the ones that suggested  
3                   about the full-service hotel being maybe as far  
4                   as 2,000 -- 1,300 or 2,000 foot and definitely  
5                   when the international flights will come into  
6                   Stewart as the Port Authority is thinking.

7                   CHAIRMAN EWASUTYN: A couple questions.  
8                   You said earlier that the residents didn't want  
9                   tall buildings but yet you're proposing, and  
10                  you'll need a variance for what we've never had  
11                  before in the Town, and that's a six-story  
12                  building. So explain to me the rational to that.

13                 MR. KINNEEN: When we were talking  
14                  about the warehouse, the offices, the retail, the  
15                  offices and the hotels here, what their immediate  
16                  concern was --

17                 CHAIRMAN EWASUTYN: What's the  
18                  difference distance wise? What's the distance?  
19                  I know what you're saying, it's not next to me,  
20                  but what are we talking about? The difference of  
21                  200 feet, 300 feet?

22                 MR. KINNEEN: I believe approximately  
23                  this right here is 100 feet. So it would be, for  
24                  the closest one, two, three, four, five -- 500  
25

feet.

CHAIRMAN EWASUTYN: 500 feet away now you're going to be proposing a six-story building, and you think that's kind of okay with the residents?

MR. KINNEEN: Believe it or not -- this is the funny part -- I thought their concerns regarding the proximity of the buildings to them was what they would say. They were more concerned about from this site who was looking into their yard. Every one of --

MR. CAPPELLO: The topography.

MR. KINNEEN: Correct. This is lower than here. I've begun to do some site sections because we've been already beginning to look at the grades. While this is lower there may be an opportunity just beyond the sewer easement as this ground begins to come up a little to be able to shield it. There's a difference between seeing a full six stories and potentially being able to see the top two stories above a tree line. Visually that's much more subdued by seeing the top two above the tree line versus seeing the full six.

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CHAIRMAN EWASUTYN: And you think people who have never had a six-story building in their rear yard would feel comfortable -- I'm just asking -- feel comfortable only having the fifth and sixth floor looking into their bedroom window?

MR. KINNEEN: I think it's 600 feet or whatever I said before.

CHAIRMAN EWASUTYN: Okay.

MR. KINNEEN: I think they're less concerned that it's that far away. You raised a good point. The other thing they were saying it's less of the people in the building. We actually pulled the building closer to the wetland. We thought the further we pushed it away the less they would see it. They were like we'd rather you push the building closer to us and push the parking back on this side in that proposal.

CHAIRMAN EWASUTYN: My next question is can you explain to me what this recreational building is all about, what's going to be in there?

MR. KINNEEN: Sure. I think by example

it's in Chester. It's in Chester on 17.

MR. GALLI: The Castle.

MR. KINNEEN: The Castle. I believe the concept there is in the entertainment center there could be batting cages. I think in some places they have a laser tag facility. It could be a single story or a two story. It's just indoor -- it's indoor recreation. There could be arcades in there. It all depends on what the user feels is the right mix for this area.

CHAIRMAN EWASUTYN: The hours of operation for the go-cart center, the days of the week?

MR. KINNEEN: I don't know what they are at The Castle.

CHAIRMAN EWASUTYN: The other thing we'll talk about in a brief sense, and Mike Donnelly will elaborate on this, is what percentage of extended stay. Our code allows for only twenty-five percent.

Mike.

MR. DONNELLY: John, we've had this issue several times. The hotel definition in the code limits it to transient stays, and not more

1                   than twenty-five percent of the units can have  
2                   kitchens. There has been interest by other users  
3                   in extended stay type hotels in the area, and two  
4                   of them that attempted to get use variances were  
5                   unsuccessful in doing that. So it's something  
6                   you'll have to be mindful of. Whether anyone has  
7                   approached the Town Board with the concept that  
8                   maybe the Town wants to rethink the limitation  
9                   that definition imposes in view of what Stewart  
10                  might become, I don't know. It may add another  
11                  agency to your list if that's what the approach  
12                  is. But it's a real issue that has been faced by  
13                  other applicants and they have not been able to  
14                  obtain the approvals necessary to do that. I'm  
15                  assuming that your extended stay would have  
16                  kitchens.

17  
18                   MR. CAPPELLO: Yes, I think that would.  
19                   Once again, that's an issue we would address.

20                   CHAIRMAN EWASUTYN: I think it's worth  
21                   discussing now, --

22                   MR. CAPPELLO: Yes, absolutely.

23                   CHAIRMAN EWASUTYN: -- because in most  
24                   cases people like yourself, with all due respect,  
25                   want the maximum potential. They sell the

1 maximum potential, and then there comes a point  
2 in time when reality sets in. That's why we're  
3 talking about it now.

4 John, I never look to argue, I look to  
5 discuss points. It's surprises I have difficulty  
6 with.

7 Do you feel comfortable that the  
8 residents would accept go carts in their rear  
9 yards, these residents? Let me explain a little  
10 history to you --

11 MR. KINNEEN: Okay.

12 CHAIRMAN EWASUTYN: -- just to bring  
13 you along. There have been three Article 78s  
14 that were brought by residents in this area as  
15 relates to their living environment. One was  
16 Pilot, two was WGYN Broadcasting, and three was  
17 Exeter. They're very sensitive to their  
18 neighborhood. I can't guarantee this but if  
19 history proves itself right, I'd say somewhere  
20 along in the process be prepared for an Article  
21 78. I think history will repeat itself.

22 MR. SMITH: My understanding and the  
23 suggestion that we reach out to the Colden Park  
24 community came from Town Hall.  
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CHAIRMAN EWASUTYN: I understand that.

MR. SMITH: It was a good idea.

CHAIRMAN EWASUTYN: I understand that wholeheartedly.

MR. SMITH: They very much appreciated that, that we brought them in early in the process, we listened to their concerns, we agreed to keep them informed, agreed to incorporate that, and they also gave us the same history you just gave us. We had an earful from them and they were very specific. About fifty people. They invited the entire community, about fifty showed up, rented the firehouse. I think it was a good exercise, and I think if nothing else it helped to diffuse and now you've got communication going on. Whoever suggested it, it turned out to be a very good idea.

MR. DONNELLY: Though you believe they've attempted to incorporate their concerns into your plan, they may not be satisfied with the extent to which you've done so.

MR. CAPPELLO: Sure. We understand this is a -- we're not -- like we said initially, we're not asking the Board to stamp this. We're



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1 the alternate where there were the residential  
2 uses where you have those three buildings as  
3 compared to office space as far as more of a  
4 mixed use community providing a variety of  
5 services and also living. I could see that as  
6 either being workforce housing or some kind of,  
7 you know, senior project.  
8

9 Again, I'll turn it over to our  
10 consultants for their comments. Whoever is  
11 closest to me to the left.

12 MR. DONNELLY: John, could I just start  
13 because some of the SEQRA issues may have changed  
14 from our discussion at the work session? When we  
15 looked at this in the work session I think we  
16 were looking at it with the assumption this was  
17 all a concrete specific proposal. I think we did  
18 understand that the supermarket might go first.  
19 One of the first reactions, and you've seen it in  
20 many of the consultants' memos, was it doesn't  
21 comply with design guidelines, and the feeling  
22 certainly at the work session then was we really  
23 need you to take another crack at the concept  
24 plan before we move forward because it's not in  
25 conformance with those. I still think that

that's something that will need to be addressed at some point. However, I now am hearing what I think is a proposal for a generic Environmental Impact Statement and not a site specific one. Just so the Board is familiar, I brought up the regulations while we were talking here, and under generic Environmental Impact Statements the SEQRA regulations say generic EISs may be broader and more general than site or project specific EISs and should discuss the logic and rationale for the choices advanced. They may also include an assessment of specific impacts if such details are available. They may be based on conceptual information in some cases. They may identify the important elements of the natural resource base as well as the existing and projected cultural features, patterns and characters. We discussed in general terms and they may present and analyze in general terms hypothetical scenarios that could and are likely to occur. So if we're going down that road I think we are addressing a concept and assumptions as to a mix of uses recognizing if this is generic there may be a site specific proposal that follows. If it

1 doesn't fall within the contours of the generic  
2 it might require its own site specific  
3 environmental review. I think Pat gave the  
4 example of the Northeast Business Park, which has  
5 held up well over I think, if I remember the  
6 lawsuit correctly, a twenty-year time period with  
7 but just a few supplemental studies, none of  
8 which rose to the level of a supplemental impact  
9 statement, and stood well. If that's true I  
10 think we really need to flesh out the assumptions  
11 that are there in terms of what the mix is. I  
12 think we need to have some kind of description of  
13 some of those uses. It may be that you don't  
14 need as much more detail as you might otherwise  
15 before we send this to other agencies.

17 I also did check the regulations as to  
18 what's required to be sent in establishing lead  
19 agency. There you are required -- I misspoke at  
20 the work session. I said you needed to send the  
21 entire EAF, all three sections. In fact the  
22 regulations say you only need to send part I of  
23 the EAF as completed by the project sponsor and a  
24 copy of any application as received. So though I  
25 still think, as you discussed at work session, it

would be helpful if this plan was a little bit more realistic in terms of incorporating the design guidelines and buffering requirements so that the generic impact statement is not one that is so far afield of what is permissible that although it's the worst case, as Tim used the phrase earlier to encompass all kinds of impacts, that we aren't wasting our time looking at impacts that would never flow if the design guidelines were closely adhered to.

I think it is permissible, at an earlier stage than we had discussed at work session, to issue a notice of intent to serve as lead agency, and that is when you're comfortable with what has been submitted. I think we're changing gears a little bit on the type of review that will be carried out.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines.

MR. HINES: In the discussions -- you have my written comments. Is there some desire to have that as a Town road? The Town has had other commercial developments such as this developed utilizing private roads.

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CHAIRMAN EWASUTYN: Dina has copies.  
The Town Board has acted on that.

MR. HINES: I didn't know that. There  
have been several in the past.

MR. CANFIELD: It just came out like  
yesterday I think.

CHAIRMAN EWASUTYN: It's in your box.

MS. HAINES: There's probably enough  
for everybody. It's from Jim Osborne.

MR. HINES: I would suggest a private  
road. I guess I got overruled.

Why three lots? Is there some rhyme or  
reason to the three lots?

MR. CAPPELLO: If this was going to be  
a Town road this would be a lot. It would be  
hard to say this is -- this area here it will be  
hard to make part --

MR. HINES: You're anticipating there  
will be additional lots in the future?

MR. CAPPELLO: Yeah.

MR. DONNELLY: The roadway creates the  
lot.

MR. CAPPELLO: Exactly.

MR. MILLER: A little bit.

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MR. CAPPELLO: It's going to be an  
oddly configured --

MR. HINES: It would work with two or  
more.

MR. MILLER: It would, but we are also  
thinking about tenancy and how future financing  
might take place.

MR. HINES: I think that needs to be  
addressed in the DEIS, that there probably is  
going to be some internal lots in the future for  
financing.

MR. MILLER: We aren't saying that there  
is. We're saying we did three for that purpose.

MR. HINES: I envision more. Most  
projects we've seen here -- in fact, that's what  
occurs. I think that needs to be clearly  
discussed.

Are you in the water and sewer  
district?

MR. MILLER: Yes.

MR. HINES: My next comment has to do  
with the Federal wetlands delineation. There's a  
piece of the wetlands that's been identified and  
isolated. We'll need that confirmed sooner than

later I hope.

MR. MILLER: We filed a JD request with the Corp of Engineers. That will not be confirmed until next year.

MR. HINES: There are some lot coverage issues. Various lot coverage is shown on the plans and the EAF and they're different in some locations. If you could clean up those bulk tables.

The Berlin development that's nearby, I know your engineers are working on that, is modified on this proposal. We talked at work session and it's in my comments. I think it works better coming in off your road there, and if that could be developed without the access to 17K. That needs to be taken a look at.

I have some additional discussion on the residential portion use of the site. You have a box blown up there showing that. I think you got some direction tonight to maybe look at that a little further.

The rest of my comments have to do with the use of the entertainment. I did know you met with the residents but I saw that as a trigger



mechanism. Maybe attracting some youth to that area may be a concern for them.

We did clarify at work session and I had a question whether this was IB or B. Obviously it is in the B zone. We talked about that at work session.

I had some comments on the subdivision, the first one being the Town road. The eighty-foot width of the proposed Town road, did that come out of the Town Board meeting also?

CHAIRMAN EWASUTYN: Jim Osborne said he's sixty feet in there.

MR. CAPPELLO: That includes a minimum. I was just reading from the letter. It says these standards include a minimum right-of-way width of sixty feet for two travel lanes without a center dividing aisle.

MR. HINES: I didn't have that letter either. You've seen it before I did.

If that is a proposed Town road, your lot with the supermarket I believe will have two front yards.

MR. TULLY: We did treat that as a corner lot. I think just for clarification, this

says that the Town Board will not take it as a  
Town road.

MR. HINES: Thank you.

MR. TULLY: You were right. We'll deal  
with it as a private road.

MR. HINES: I didn't think they would  
because we've had several others. I was surprised  
when you told me that.

MR. TULLY: This says it will not be a  
Town road. We'll construct it as if it were a  
Town road. We'll construct it to the  
specifications the Town Board is suggesting.  
That lot does have the setbacks as if it were a  
corner lot. It's a sixty-foot setback on both  
sides.

MR. HINES: That's perfect.

CHAIRMAN EWASUTYN: For the record you  
are?

MR. TULLY: I'm sorry. My name is Art  
Tully from Lanc & Tully Engineers.

MR. HINES: There will be a need to  
change the lot lines. Private roads have the lot  
lines go to the center.

There will be notes on the subdivision

1 plan requiring demolition permits. There's an  
2 existing building on the site. That's a standard  
3 note on the subdivision plan.  
4

5 Ownership and potential access from  
6 Skyers Lane. Who owns that?

7 MR. TULLY: Skyers Lane is -- Art Tully  
8 again -- is an old road by use. There doesn't  
9 appear to be any rights-of-way or easements.  
10 There's nothing in our deed that describes it in  
11 any way as being a public thoroughfare but it  
12 does exist there so it's something that's been  
13 utilized by the property owners. It actually  
14 comes to the back of this property and services  
15 some old buildings in the back, but we have no  
16 record as to its status other than it's just been  
17 something that's been used over the years.

18 MR. HINES: If that develops further or  
19 any use of that we need to identify it.

20 MR. TULLY: We don't have any proposal  
21 as part of our application to use it. We're  
22 going make sure that we don't prevent anybody  
23 else who has current use of it now from being  
24 able to use it in the future.

25 MR. HINES: That's all I have. I'm

reading the Town Board minutes.

CHAIRMAN EWASUTYN: Jerry, do you have anything to add at this time?

MR. CANFIELD: Nothing generically. As more details become available. Fire protection and possibly other Town code issues will relate. That's basically site specific.

CHAIRMAN EWASUTYN: And you did send a copy of this out to the jurisdictional fire department?

MR. CANFIELD: Yes, I did. I'll be quite honest with you, I was a little unclear of what this all was, and tonight, through the presentation and the work session, all the questions, and comments, and answers that have been presented, I have a clearer picture now. I will do a follow up with the jurisdictional department to advise them of exactly what they're looking at. It was just pretty much a presentation to them. As I believe Mr. Smith had noted before, you rented the firehouse. I believe some of them are aware of what this is, but our process is to keep the jurisdictional fire department in the loop as these projects

1 develop for any additional fire protection  
2 concerns or needs that they may have. So we will  
3 follow up now and have a clearer picture of what  
4 exactly was presented and what the intent is to  
5 kind of keep them further in the loop.

6  
7 CHAIRMAN EWASUTYN: Thank you.

8 Bryant Cocks, Planning Consultant.

9 MR. COCKS: I guess I'll start with the  
10 comprehensive plan. They identify East Coldenham  
11 as an area of the Town where they want to try to  
12 create hamlet type developments. I think that  
13 means they're trying to create a community center  
14 of some sort in this area, and I think this is a  
15 perfect opportunity to accomplish that. You do  
16 have residences and schools adjacent to this, and  
17 we feel like the walkable type mixed use  
18 development is exactly what we want. The mix of  
19 uses, if you do put in the residential aspect of  
20 it, would go along nicely with having a  
21 supermarket, and retail, and hotels, and  
22 recreation. All that stuff would fit in great.  
23 I just feel like the site needs to be kind of  
24 thought out a little more. At this point it kind  
25 of just looks like a sea of parking with a bunch

1 of buildings as individual sites in there. It  
2 doesn't seem like they're really connected either  
3 through pedestrian identity. Even with cars, it  
4 seems like you're going to have to hop from one  
5 place to another if you want to use it. I just  
6 think when you guys are looking at the plan, if  
7 you can try to make it more a dense community  
8 with shared parking and more open space there, I  
9 think it would be a great benefit for the Town.

11           There was one other issue, the border  
12 with Winwood Lane up there. There's a sewer  
13 easement that runs through it. That's an area  
14 that you guys were identifying as buffer area.  
15 The Town of Newburgh isn't going to let you guys  
16 put any landscaping on top of that in case they  
17 do have to go in and do work. It really isn't  
18 going to be effective in screening anything since  
19 no plantings are allowed on it. I think you  
20 might -- it's certainly clear you're not going to  
21 be able to plant anything on there to screen it.  
22 I think you might have to pull those buildings  
23 back to a point where you can add in the  
24 available or the required screening that's  
25 necessary.

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CHAIRMAN EWASUTYN: That would be a key component as far as the residents.

MR. HINES: It would probably reduce the parking requirements for residents.

MR. COCKS: With the design guidelines they also state that they want to have pedestrian connections, and shared parking lots, and more of the buildings toward the street. I don't think the intent of the design guidelines would be to be driving up 17K to look to your left and see a huge parking lot in front of what's basically an L-shaped strip mall, which is pretty much what we have at Stop & Shop on 300 now. In the redesign there's retail buildings in front of there. If you guys could kind of move the parking in the side and back. Even if you have some up front in between those two buildings, it will at least pull the buildings closer to the road.

MR. CAPPELLO: Here?

MR. COCKS: Yeah. If you pull some of the parking that's in that big square right there in back and move those buildings up and in a little bit and try to hide some of that parking from the road, that would help a lot in the

aesthetics driving by. I know you guys are going to be looking at redesigning it anyway, so it's just a thought.

Besides the SEQRA issues that Mike discussed, I guess that's about it for now.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect.

MS. ARENT: The design guidelines are important to pay attention to at this juncture because several of the -- for example, design the site based on existing topography, vegetation and drainage characteristics. That obviously has to be done right at the get-go. Just because you're showing parking, buildings, walkways, the design guidelines ask you to show outdoor space, community space, and that has to be planned at this junction so that space is allocated for that right at the get-go. So that's something to pay attention to.

The guidelines also ask you to not replicate the pattern of development that's already in the Town and to create more of a community-based development. So try to observe that guideline as well. That's it.



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CHAIRMAN EWASUTYN: Ken Wersted,  
Traffic Consultant.

MR. WERSTED: I'm reading the Jim  
Osborne memo regarding the Town Board and  
accepting of the -- not accepting of the main  
entrance road. They do note that the minimum  
right-of-way is sixty feet for two travel lanes  
without a center dividing island. My  
interpretation of that, and maybe Jim Osborne can  
clarify, but that isn't necessarily what they're  
looking for. I don't think they're precluding  
the development of a boulevard, they're just  
saying that that's the minimum, sixty feet if you  
don't have a boulevard. If you do have a  
boulevard it might have to be wider.

MR. TULLY: I think we had indicated an  
eighty-foot right-of-way with the boulevard, and  
I think there was a question as to why didn't we  
have the right-of-way wider than sixty. It's  
because there was a boulevard proposed.

MR. WERSTED: So their letter is  
talking about the minimums.

We didn't have very many specific  
comments because it is conceptual at this point.

We know we're going to need a DEIS and traffic studies and so forth. Some of the concerns that obviously will come up will be access to adjoining parcels, both vehicular and, you know, other modes, pedestrian and bicycle oriented.

From our perspective the comments from the other consultants I think would help shape the overall development of the plan and how that ties into my concerns with the square footages that would obviously be built out and analyzed in terms of traffic. From my perspective, my understanding of the project at this point is I will necessarily be looking at the hotel and the indoor recreation center with a keen eye to the parking layout and how, you know, those items come into play as much as the front parcel, lot number 1 with the development, because that's the main project that's coming ahead of us and the rest of it is, you know, conceptual and there is no site plan for it.

So that's my understanding of where we would be going with that. I think that's pretty much the extent of our comments.

Obviously DOT will get involved in

terms of access, both for this project and perhaps how the Berlin project connects to the main drive here.

Certainly we'll have to look at how the phase I or the lot 1 development gains access and how that will tie in and how the improvements on 17K for that development tie in to the remainder of the balance of the project.

CHAIRMAN EWASUTYN: The only other addition I would add is if you would show one or two possible proposed bus stops within the facility to allow for mass -- for county transportation. Jerry, does the Town Board approve -- is it necessary to get approval from the Town Board for private road names or is that a --

MR. CANFIELD: Yes. That comes -- actually it goes through the clerk's office. Ultimately it's approved by the Town Board.

CHAIRMAN EWASUTYN: Then on your EAF you had approvals down. You may want to list the Town Board for private road name approval.

All right. I'll bring it back to you, Mike Donnelly.

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MR. DONNELLY: I think it would be permissible for you to issue a lead agency notice of intent and to send part I of the EAF together with the application. Quite frankly, since one has already been prepared, a draft scoping outline to all of the other agencies. However I think the spirit of your discussion at work session was that perhaps before you go too much further, and it's for you to decide whether that means at this juncture or after that lead agency notice of intent is sent, whether a proposal in concept form more closely adhering to the design guidelines should be reviewed so that we have a realistic, or a more realistic project to be reviewed. But having looked again at the regulations, only part I needs to be sent. You do have an application. Obviously this project is going to be under review for some period of time. You could get started by sending a lead agency notice of intent.

CHAIRMAN EWASUTYN: How would the Board like to act? Frank Galli?

MR. GALLI: Just the way Mike said.

CHAIRMAN EWASUTYN: Ken Mennerich?

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MR. MENNERICH: That's fine. I think the only point of clarification I would ask is is this going to be treated as two separate projects the way we have it listed on our agenda or are we going to have it combined as a subdivision and a site plan?

MR. DONNELLY: I don't know why for administrative purposes we made it two. I think what the applicant is proposing, a generic environmental review, will cover the entire project. When that is concluded they said they will immediately ask for subdivision approval, and they will then, if I understand correctly, move forward with site plan for the supermarket and the related use parcel. For our individual purposes I defer to Dina as to why we created two file numbers.

CHAIRMAN EWASUTYN: Well actually that was a recommendation that Dina and I had. Since we received it this way we were unsure which way to list it.

MR. DONNELLY: Ultimately we did the same thing with The Market Place.

CHAIRMAN EWASUTYN: That's why we put

1                   it on the table for discussion. I think what you  
2                   have to realize also is Dina and I don't really  
3                   make decisions, we just try to collect the  
4                   information and put it out to see what is  
5                   recommended by the Planning Board and  
6                   consultants. So we're at that particular  
7                   juncture now. It's my understanding we'll list  
8                   it as one action, that would be both the  
9                   subdivision and a site plan. Correct?

10                   MR. DONNELLY: Yes.

11                   CHAIRMAN EWASUTYN: And will we be  
12                   listing both application numbers in parenthesis  
13                   with this?

14                   MR. DONNELLY: I think since we've  
15                   created two application numbers they'll just  
16                   travel together with both numbers for the time  
17                   being. At some point obviously the subdivision  
18                   will, in all likelihood, be approved and will  
19                   disappear and you'll continue only with the site  
20                   plan. That's probably a reason for having two  
21                   separate numbers.

22                   CHAIRMAN EWASUTYN: My understanding  
23                   too in processing this with the Town is we need  
24                   two applications as far as the receiving of  
25

money. So that's why we set it up that way also.

MS. HAINES: I have a question now if we're going to combine them. We made them deposit two escrows, one for the site plan and one for the subdivision. For example tonight where would I bill that out of? Which one, the site plan or the subdivision?

MR. DONNELLY: I was going to submit my voucher and split them evenly.

MS. HAINES: Everybody should do the same thing.

CHAIRMAN EWASUTYN: Then we'll talk with Jackie further as to what we may do to combine it.

MS. HAINES: It was just a matter of what account I was going to take it out of.

CHAIRMAN EWASUTYN: Okay. So at this point I'll move for a motion to declare our intent for lead agency.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

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(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes.  
You will be then submitting a revised  
plan more in line with what we discussed tonight.  
Right now we'll be just circulating the  
application part I.

MR. MILLER: You asked us to revise the  
EAF to add this approval. We'll check to make  
sure our coverage number is consistent.

Would you like us to do the mailing?

CHAIRMAN EWASUTYN: We'll have Bryant  
Cocks do the mailing at this point.

MR. CAPPELLO: As we're listing the  
agencies I just wanted to clarify one thing with  
the Board. I believe we talked about the option  
of an affordable housing project and a senior  
citizen, the only two residential I believe that  
are special permit. There's a special provision  
within the B zone to admit that. As part of the



1 generic review, if you want to list them or if  
2 the Board wanted to consider just a more  
3 traditional residential use there as part of a  
4 mixed hamlet, we could notice the Town Board if  
5 you're so inclined, you know, to go there as  
6 potentially amending the zoning, that you're  
7 looking to create a hamlet in this area to at  
8 least examine the impacts so if in the future the  
9 Board wanted to do it they have the parameters to  
10 do that. Is that something that, you know --

11 CHAIRMAN EWASUTYN: Frank?

12 MR. GALLI: I think there's a big need  
13 for senior housing in the Town. You might want  
14 to go that route. People are always asking me  
15 every time projects come up.

16 CHAIRMAN EWASUTYN: Ken?

17 MR. MENNERICH: I kind of agree also  
18 with the workforce housing which you mentioned  
19 before, John.

20 CHAIRMAN EWASUTYN: So we have one  
21 saying senior, the other saying workforce.

22 MR. CAPPELLO: Those two are permitted.  
23 If you want us to explore or discuss a third  
24 option that was more traditional --  
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CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: I'd rather you try to approach the senior housing. I think there's much more of a need for that.

CHAIRMAN EWASUTYN: I'm kind of like Ken. I probably would lean equally as much for workforce housing as I would for senior.

MR. CAPPELLO: Workforce is the same procedure I believe. So we can kind of -- as we go through the scoping outline we may discuss both options.

MR. MILLER: Well, if the Board has no objection, I'd rather be safe. If we're going to go through this big coordinated review including the Town Board as a potential agency because we just don't know, it would be the same course without committing anybody. So I'd be happy to list the Town Board as a possible zoning decision and that keeps it open. We're doing the generic EIS and site specific on the supermarket, so let's get everybody's involvement.

CHAIRMAN EWASUTYN: It's not really a Planning Board issue but I would assume you're under a certain amount of pressure, a timeline,

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GATEWAY COMMONS

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for closing on this project. Are you not?

MR. CAPPELLO: It's a clock.

CHAIRMAN EWASUTYN: Again as a matter of education, you don't have to spell it out in such detail but I always like to know, I always like to have that information. You have an agenda, you have a schedule, and not that we have to work with that but in trying to understand your needs, in trying to provide you with some kind of service, can you give us I wouldn't say a broad range but again some kind of commitment that you made.

MR. KINNEEN: Anywhere between two years as the initial one.

CHAIRMAN EWASUTYN: The initial presentation.

MR. KINNEEN: The initial presentation. Like in a year from now and then depending on, you know, the circumstances that come we may get an extension of another year.

CHAIRMAN EWASUTYN: So you have two years to sort of come to terms with this.

MR. KINNEEN: Yes.

CHAIRMAN EWASUTYN: Thank you.

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GATEWAY COMMONS

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Anything else?

MR. MILLER: No. I think we're good.

Thank you very much.

MR. CAPPELLO: Thank you. We're going to get that revised map and the lead agency designation. Is there a work session coming up so we can maybe start working toward --

CHAIRMAN EWASUTYN: I think what we agreed on with the work session is it's much too early that the Planning Board wants to be involved in the process.

MR. DONNELLY: The conceptual issues are for the Board. Work sessions are for technical issues when your design detail is up to speed.

MR. MILLER: With the circulation of the EAF, you would like site plan -- site plan specific and the three-lot subdivision and this concept plan as a starting point with the understanding that we will be modifying this?

CHAIRMAN EWASUTYN: I think we want something a little bit better than the concept plan.

MR. MILLER: Okay. You won't circulate

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that until you have a concept plan that --

MR. DONNELLY: We can't send out the notice of intent. You would need to -- the notice of intent you're supposed to send whatever application they have submitted to you.

CHAIRMAN EWASUTYN: I thought you had originally said we could. Okay.

MR. DONNELLY: I'm saying you had a choice. You could either wait until the concept plan was up to speed and then issue your notice of intent or you could issue it now because all you're required to send is part I of the EAF and whatever application had been submitted.

MR. MILLER: We hadn't submitted an application for this. We submitted an application specifically for the supermarket, but the EAF does --

MR. MENNERICH: So we can submit the --

CHAIRMAN EWASUTYN: Supermarket.

MR. MENNERICH: -- supermarket along with the --

MR. DONNELLY: There's a description in the EAF of the rest of the concept?

MR. MILLER: Yes.

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GATEWAY COMMONS

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MR. DONNELLY: You can do that, that way you won't mislead them.

CHAIRMAN EWASUTYN: And that's the direction I believe we were heading.

MR. MILLER: Thank you.

MR. CAPPELLO: Thank you very much for your time.

MR. WERSTED: Joe and I were talking during the work session about DOT and how much force and leeway they might have. I think it's good to get that plan in front of them earlier than later because the engineer, Lanc & Tully, had submitted a letter to DOT, Zibbie Zacharia, regarding the Berlin project and that they evidently had submitted all material that DOT requested and they're looking to move forward on their final design. So I think it would be of interest to DOT to have this plan in mind when they're doing their final review of the Berlin project and how changes to that driveway may come into play in the future as this project and the Gateway Commons project kind of build out. Even as phase I, the supermarket, comes into play. We had talked about access going out to Route 17K

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GATEWAY COMMONS

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being the main entrance for Berlin. Perhaps that changes in light of this full access driveway right next to their site.

CHAIRMAN EWASUTYN: What are you suggesting?

MR. WERSTED: I'm suggesting that the materials for Gateway Commons go out as soon as possible. I'm not saying tomorrow or anything. If the Board wishes I can also reach out to Zibbie. I did talk to Rich Gilman this afternoon about the concept as a whole, but perhaps Zibbie would also like to see a copy of that. I could reach out to her and let her know this is coming, here's a preview of it, and they should keep this in mind in terms of access when they're also reviewing, you know, the Berlin project which is more of an immediate thing in front of them.

CHAIRMAN EWASUTYN: I think if you hadn't had the opportunity, what Ken Wersted is relating to is we received a letter from Lanc & Tully this week and in that letter they reference particular dates that they made submittal to the DOT and revision to the DOT and at this point in time are looking for the DOT to act on that as

1 far as the necessary permits. What Ken is saying  
2 is hey, just one second, look at this as far as  
3 the overall corridor and permitting. So I think  
4 if the Board is okay with that we should let  
5 them. Frank?

6  
7 MR. GALLI: Would they issue a  
8 temporary entrance and then say when the  
9 boulevard is open you have to close this and go  
10 into the boulevard? Is that how they would react  
11 to that?

12 MR. WERSTED: Obviously the Berlin  
13 project is much further along.

14 MR. GALLI: That's what I'm saying,  
15 they have no other access but directly to 17K.  
16 That would make Berlin start that boulevard into  
17 the property and stop there?

18 MR. WERSTED: I doubt it. That would  
19 be great.

20 MR. HINES: They don't own the property  
21 either. They may condition the permit and at  
22 some point it becomes a right in, right out only.

23 MR. MENNERICH: Until the other  
24 boulevard is there.

25 MR. WERSTED: The Berlin applicant



1 obviously notes in their November 14th letter to  
2 DOT that they submitted the materials, they're  
3 looking to proceed with final design plans,  
4 they're reluctant to do so until they hear back  
5 from DOT. They need to circulate final plans to  
6 the Town of Newburgh and their consultants for  
7 final approval but cannot until the extent of the  
8 driveway on Route 17K is shown as is incorporated  
9 into the complete plan set. So this is kind of  
10 our last look at the Berlin project. If DOT  
11 agrees with the Gateway project coming in, it  
12 makes sense to change the future access of  
13 Berlin, that may need to be incorporated both  
14 into their permit and into the final plans that  
15 come back to us to approve.  
16

17 CHAIRMAN EWASUTYN: Let her know.

18 MR. WERSTED: Okay.

19 MR. COCKS: If you were Berlin and you  
20 knew this site was coming in, couldn't you come  
21 back for amended site plan instead of --

22 MR. DONNELLY: Not if you have to wait  
23 two years, three years.

24 MR. COCKS: I just thought that, you  
25 know, the Dunkin Donuts, a lot of people use the

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GATEWAY COMMONS

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drive-through if they are leaving out of there.  
Yeah, if they have to wait two years they  
probably wouldn't.

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

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

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DATED: December 12, 2008

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

- - - - - X  
In the Matter of

ELM FARM  
(2000-09)

Extension of Preliminary Approval

- - - - - X

BOARD BUSINESS

Date: November 20, 2008  
Time: 9:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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

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ELM FARM

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MS. HAINES: The first item of Board business we have is Elm Farm. We received a letter from Daniel Sullivan on November 13th. He's requesting extension of his preliminary subdivision approval that was granted on June 16, '05. The current approval expires on November 17, 2008. A 180 day extension will be valid through May 16, 2009.

CHAIRMAN EWASUTYN: I'll move for that approval, to extend for another 180 days.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 9:11 p.m.)

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

- - - - - X  
In the Matter of

LANDS OF ZAZON

Scheduling for Consultants' Work Session

- - - - - X

BOARD BUSINESS

Date: November 20, 2008  
Time: 9:12 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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LANDS OF ZAZON

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MS. HAINES: Next we have Zazon, to  
set it up for a consultants' work session.

CHAIRMAN EWASUTYN: Bryant, what's your  
next date for a consultants' work session?

MR. COCKS: Because of Christmas we  
made it the 16th.

CHAIRMAN EWASUTYN: It won't be until  
December now?

MS. ARENT: I have it on Tuesday.

MR. COCKS: Next Tuesday we do have one  
but we haven't scheduled anything for it.

CHAIRMAN EWASUTYN: Then we can  
schedule this.

MR. COCKS: Yeah.

CHAIRMAN EWASUTYN: And the date for  
that is?

MR. COCKS: That would be the 25th.

CHAIRMAN EWASUTYN: I'll move for a  
motion to set the 25th of November for a work  
session for final approval for the lands of  
Zazon.

MR. PROFACI: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by



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LANDS OF ZAZON

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself.

Would you make it a point, I think  
that's Zimmerman's office, I'm not sure, tomorrow  
and let them know that?

MR. COCKS: Yes.

(Time noted: 9:14 p.m.)

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DATED: December 12, 2008

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

- - - - - X

In the Matter of

LANDS OF MARTIKIEWICS, DiLEO & THORPE  
(2002-73)

Filing of Map - Project Approval Has Expired

- - - - - X

BOARD BUSINESS

Date: November 20, 2008  
Time: 9:14 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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

MS. HAINES: Next we have a discussion by Mike Donnelly regarding his letter dated November 13th for the lands of Martikiwicz, DiLeo & Thorpe and the filing of the map where the project's approval has already expired.

MR. DONNELLY: I was given some papers by Dina, some by the supervisor. We tried to piece together a file. Apparently site -- not site plan, lot line approval was granted to this applicant back in February of 2003. I don't have a copy of the resolution so I do not know whether it had a specific sunset provision or length of its validity. The approval did require that certain changes be made to the plans. Most particularly, the plan did not show -- let me back up one step. This subdivision actually has three houses already. It's a lot -- three lots where three houses exist. There was a proposal to just move one of the lines. The map didn't show one of the three houses that existed, so one of the requirements of the approval is that they actually show the house on lot 4. Why after that approval was granted the maps, as required, were

1 not submitted I do not know. Some weeks back I  
2 got a call, maybe a month ago, from the  
3 supervisor saying suddenly these people want to  
4 submit their lot line change, what do they have  
5 to do. That's when he sent me some parts of the  
6 file.  
7

8 As you know, lot line changes, the  
9 courts have told us, are not authorized under our  
10 ordinance, and until the ordinance or subdivision  
11 regulations are changed there is no such animal  
12 any longer. However, this approval was granted  
13 back in 2003.

14 The question is if they submit a map  
15 that satisfies the conditions of the resolution,  
16 may it now be signed and may it be entered in the  
17 real property tax service office? Thus far what  
18 they've submitted is not. Strangely the paper  
19 print does show a house on lot 4 and does have  
20 signatures of all three property owners. The  
21 mylars do not show a lot on house 4 and is  
22 missing one of the signatures of the lot owners.  
23 Both of those things are correctable but they  
24 have not satisfied the conditions.

25 Assuming they do, the question I tried

1 to address in my letter is whether or not there  
2 is any time bar to the submission or whether or  
3 not the declaration of the court in the Exeter  
4 case somehow prohibits you from allowing the map  
5 to be filed now.  
6

7               What I tried to say in the letter is  
8 not that you must allow it to be filed but I  
9 think you can take the position that because we  
10 don't have any proof that there was a sunseting  
11 provision in the resolution itself, and since lot  
12 line changes are not defined in the ordinance so  
13 there's nothing built in to your code, that you  
14 are not time barred from signing it. The other  
15 piece I touched upon is you've been grabbling  
16 with this issue of the preliminary site plan and  
17 subdivision approvals and you, generally  
18 speaking, have been giving those other applicants  
19 a sort of warning letter that either get back on  
20 track or we'll deem your application withdrawn.  
21 This one is an inordinately long delay, but I  
22 think in the spirit of that you could couple the  
23 fact that there's no sunset provision in the  
24 resolution of the ordinance with the fact that  
25 they were never sent such a letter and allow the

1 map to be filed now. Recognize that if we don't  
2 do that what will need to happen for these people  
3 who simply want to address their property line is  
4 they're going to have to apply for subdivision  
5 approval, they're going to have to get variances  
6 because these lots don't comply, hold a public  
7 hearing and submit that map for filing after the  
8 approval which improves the extent of compliance  
9 and in all likelihood is an approval you would be  
10 inclined to grant.  
11

12 So in the context of what this  
13 involves, I'm suggesting there is a way for you  
14 to allow the map to be signed but you need not do  
15 so given the fact that five years has gone by  
16 since they were last before you.

17 CHAIRMAN EWASUTYN: Okay. So what  
18 action are you looking for the Board to take this  
19 evening?

20 MR. DONNELLY: Authorize me to write a  
21 letter to the applicant that says provided you  
22 submit a map, and this time let's give them a  
23 deadline that complies with the requirements and  
24 the resolution of approval, that the Chairman  
25 will sign it and you can enter it or file it at

that time in the office of the real property tax service agency.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to approve the action that Mike Donnelly has just described.

MR. PROFACI: So moved.

MR. DONNELLY: I'll add within thirty days. They must submit it within thirty days. Is that too short?

CHAIRMAN EWASUTYN: At this point I'd say -- if we waited this long, let's give them sixty days because the holiday and everything else. I would hate to see them come in looking for an extension -- an extension of an extension.

MR. DONNELLY: They won't come back.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. Do I have a second?

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.



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CHAIRMAN EWASUTYN: And myself. So  
carried.

Who are you going to notify? All three  
parties or the name Dina and I can't pronounce?

MR. DONNELLY: No one has contacted me  
other than frankly the supervisor.

CHAIRMAN EWASUTYN: According to DiLeo  
and Martikiewicz, he's the one you should  
contact.

MR. DONNELLY: If you can give me the  
addresses I can write to all of them.

(Time noted: 9:18 p.m.)

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

I, Michelle Conero, a Shorthand  
Reporter and Notary Public within and for  
the State of New York, do hereby certify  
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DATED: December 12, 2008

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

- - - - - X

In the Matter of

PROPOSED TOWN OF NEWBURGH LOCAL LAW

Establishing a Temporary Moratorium on Outdoor Furnaces

- - - - - X

BOARD BUSINESS

Date: November 20, 2008  
Time: 9:18 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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

MS. HAINES: Next on Board Business is Mike Donnelly discussing the proposed new local law regarding outdoor furnaces.

MR. DONNELLY: Interestingly there was an article I think in The Record today that touches on another aspect, and that is that some of the new energy methods have raised land use issues. This was windmills. Nobody has an ordinance that regulates something that nobody in their wildest imagination some time ago was thinking about. When that happens to a municipality and suddenly these animals come before them, one of the things a municipality can do is impose a moratorium on that thing until they can decide whether or not to allow it and, if they are going to allow it, on what terms. That's what the Town did on this local law. These outdoor furnaces have become very popular. They're not regulated I think under State code at all, although there's talk of placing them within the regulation of the State code. They present both an air quality as well as a fire hazard even though they're outside and the apparent advantage is that you don't burn up your own house, you

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just have this isolated smolder outside.

The Town, while it's contemplating how to regulate them, and there are many examples around -- I think Bryant put forth some information on the different approaches towns have taken -- this local law does no more than impose a moratorium on their construction until the Town figures out how to regulate them.

MR. HINES: New Windsor is banning them.

MR. DONNELLY: Some communities are.

MR. GALLI: Also Jerry, is the Town going to look at the windmills now that it's been presented? They're thirty-five feet high.

MR. CANFIELD: I know Tilford has had conversation with Wayne Booth regarding that, the windmills. I don't know for sure exactly where it's at at this time.

MR. COCKS: We just reviewed one that's going in in Montgomery on one of the farms.

MR. GALLI: New Windsor has one going before them.

MR. COCKS: They're eighty-five feet, they're not thirty-five. They have to clear the

1 tree line to be able to get enough wind to  
2 generate it. They're serious. They make this  
3 humming noise. It will drive you insane if  
4 you're not a certain distance away from it, like  
5 a thousand feet or five hundred feet. If you're  
6 like three hundred feet and you're living under  
7 it, you'll literally go insane from the hum.  
8 They said people who sue them get taken down.

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10 MR. DONNELLY: There is a farm of them  
11 up between Utica and Syracuse I think is where  
12 they are. At least at a distance they're unusual  
13 looking but have a certain elegance to them.

14 MR. GALLI: Maybe Lease can put one up  
15 on the cell tower.

16 MR. DONNELLY: There's also some talk  
17 that the farms of them create some interference  
18 with wind patterns and may also have a weather  
19 impact.

20 CHAIRMAN EWASUTYN: I prefer the gates  
21 of Central Park. I think that is more pleasing  
22 visually.

23 MR. DONNELLY: Their functionality was  
24 something else but they were something to see.

25 MR. COCKS: The one going up in

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PROPOSED LOCAL LAW

135

Montgomery was providing power to all the farm  
uses. It's just the one guy's farm, the one guy's  
site. He doesn't have to pay I guess Central  
Hudson up there an absorbatant amount to run all  
his farm equipment.

CHAIRMAN EWASUTYN: I think what they  
were going to do there is you send a  
complimentary letter to the Town Board that we  
acknowledge receipt of that and so forth. I  
think we have that responsibility to make them  
feel that we're part and parcel.

(Time noted: 9:22 p.m.)

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

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

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DATED: December 12, 2008



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

- - - - - X

In the Matter of

EXECUTIVE SESSION

Pending Legal Matters re: The Marketplace and Exeter

- - - - - X

BOARD BUSINESS

Date: November 20, 2008  
Time: 9:22 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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

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EXECUTIVE SESSION

138

MS. HAINES: Next is an executive session regarding pending legal actions for The Marketplace and Exeter.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to enter into executive session to discuss pending legal action for Exeter and The Marketplace.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 9:22 p.m. )

(Time resumed: 9:35 p.m.)

CHAIRMAN EWASUTYN: I'll move for a motion to enter out of executive session.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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EXECUTIVE SESSION

139

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

(No response.)

CHAIRMAN EWASUTYN: Let the record show that Ken Mennerich moved to enter out of executive session. It was seconded by Frank Galli. No decisions were made during executive session.

(Time noted: 9:36 p.m.)

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

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DATED: December 12, 2008

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

- - - - - X  
In the Matter of

QUARTERLY SITE INSPECTION

- - - - - X

BOARD BUSINESS

Date: November 20, 2008  
Time: 9:36 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

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

- - - - - X

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QUARTERLY SITE INSPECTION

142

MS. HAINES: The last item of Board Business is the quarterly site inspection now for December of `08, one weekend.

CHAIRMAN EWASUTYN: E-mail Dina as to what date you want to do it and we'll do it. Okay?

MR. GALLI: December 6th.

MS. HAINES: That's it.

CHAIRMAN EWASUTYN: Anything else?

(No response.)

CHAIRMAN EWASUTYN: I think we did well.

I'll move for a motion to close the Planning Board meeting of the 20th of November.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So

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carried.

(Time noted: 9:38 p.m.)

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

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DATED: December 12, 2008