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

----- X

In the Matter of

LANDS OF CHARLES PELELLA & WILLIAM BELL
(2007-29)

End of Lockwood Lane, south side of Colvin Lane
Section 8; Block 1; Lot 8.12
AR Zone

----- X

PUBLIC HEARING
FIVE-LOT SUBDIVISION

Date: April 16, 2009
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

1
2 MS. HAINES: Good evening, ladies and
3 gentlemen. I'd like to welcome you to the Town
4 of Newburgh Planning Board meeting of April 16,
5 2009.

6 First I'd like to introduce the
7 Planning Board's two new Members, Mr. Thomas
8 Fogarty and Mr. John Ward. Welcome.

9 At this time I'll call the meeting to
10 order with a roll call vote starting with Frank
11 Galli.

12 MR. GALLI: Present.

13 MR. MENNERICH: Present.

14 MR. PROFACI: Here.

15 MR. FOGARTY: Here.

16 MR. WARD: Present.

17 CHAIRMAN EWASUTYN: Present

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

23 MR. DONNELLY: Michael Donnelly,
24 Planning Board Attorney.

25 MS. CONERO: Michelle Conero,

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Stenographer.

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

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

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

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

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

(Pledge of Allegiance.)

MR. PROFACI: If I could please ask you
to turn off your cell phones, pagers.

MS. HAINES: The first item we have on
our agenda tonight is the lands of Charles
Pelella and William Bell. It is a public hearing
on a five-lot subdivision located at the end of
Lockwood Lane, the south side of Colvin Lane.
It's in an AR zone and being represented by
Charlie Brown.

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

MR. MENNERICH: "Notice of hearing,

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2 Town of Newburgh Planning Board. Please take
3 notice that the Planning Board of the Town of
4 Newburgh, Orange County, New York will hold a
5 public hearing pursuant to Section 276 of the
6 Town Law on the application of lands of Charles
7 Pelella and William Bell for a five-lot
8 subdivision on premises end of Lockwood Lane,
9 south side of Colvin Lane in the Town of
10 Newburgh, designated on Town tax map as Section
11 8; Block 1; Lot 8.12. Said hearing will be held
12 on the 16th day of April at the Town Hall Meeting
13 Room, 1496 Route 300, Newburgh, New York at 7
14 p.m. at which time all interested persons will be
15 given an opportunity to be heard. By order of
16 the Town of Newburgh Planning Board. John P.
17 Ewasutyn, Chairman, Planning Board Town of
18 Newburgh. Dated March 6, 2009."

19 MR. GALLI: The notice of hearing was
20 published in The Sentinel on April 10, 2009 and
21 in The Mid-Hudson Times on April 8, 2009. The
22 applicant's representative sent out seventeen
23 registered letters, fifteen were returned. All
24 the mailings and notices are in order.

25 CHAIRMAN EWASUTYN: Thank you.

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2 Before we turn the floor to Mr. Brown
3 to give his presentation, I'll have Mike
4 Donnelly, Planning Board Attorney, explain where
5 we are in the process and explain the procedure
6 for a public hearing.

7 MR. DONNELLY: There are two matters on
8 this evening for public hearing. Both of them
9 are subdivisions. Public hearings for
10 subdivisions are required under New York State
11 law. Both applications had been before the
12 Planning Board before the scheduling of the
13 hearings, and after the Planning Board made a
14 determination that these are ready for public
15 hearings, the hearing in each case was scheduled.

16 The purpose of the public hearing is to
17 ensure that before the Planning Board acts it
18 hears from members of the public who might bring
19 issues of concern to the attention of the
20 Planning Board that the Planning Board or its
21 various consultants might not have noticed,
22 thought of or brought to the attention of the
23 Board. Therefore, after the applicant gives a
24 brief presentation, the Chairman will ask any
25 members of the public that wish to speak to

1 please do so. We have a Stenographer present, so
2 if you are recognized to speak we ask you to step
3 forward where everyone can hear you. If you'd
4 please state your name and your address, and if
5 your name is unusual, if you could spell it for
6 us to make sure we get it down correctly, and
7 then address your comments to the Board. If you
8 have questions that can be answered with relative
9 ease, the Chairman may wish one of the
10 consultants or the applicant's representative to
11 try to answer your question if possible.

12 However, the primary purpose of the hearing is
13 for you to bring issues to the Planning Board's
14 attention. I don't think there's going to be go
15 arounds. There may be limitations at times but I
16 don't think the audience is big enough, so I
17 think that's the procedure that will be followed.

18 MR. BROWN: My name is Charles Brown,
19 the engineer for the applicant. The subject
20 application here is two parcels containing two
21 single-family residences. They're served off the
22 end of Lockwood Lane.

23 The proposal is to create three new
24 building lots for a total of five which will also
25

1 have single-family residences. They'll be served
2 by individual wells and septics.

3 To access those lots the proposed
4 Lockwood Lane is going to be extended
5 approximately 800 feet. We'll do intersection
6 work where Colvin comes into Lockwood Lane to
7 kind of square off that intersection there and
8 add a stop sign.

9 The property is in the AR Zone.

10 In addition to the road there will also
11 be drainage improvements per SPDES regulations.

12 CHAIRMAN EWASUTYN: Thank you. As Mr.
13 Donnelly had said, at this time anyone interested
14 in commenting, would you please raise your hand,
15 give your name and your address.

16 MR. TRAVIS: Del Travis, 95 Lockwood
17 Lane. The question I have Mr. Brown, you
18 mentioned drainage where they're putting the
19 cul-de-sac at the end I guess. Is there going to
20 be any drainage off there so it doesn't go down
21 on the road that leads to my road?

22 MR. BROWN: Yeah. Everything is
23 collected off the cul-de-sac and goes into the
24 detention pond and then it's collected to the
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stream on the other side of the driveway.

MR. TRAVIS: One more question. Once this road is done off Colvin Lane to widen it, are these houses going to be able to use the existing driveway?

MR. BROWN: No. Everything will be off Colvin Lane.

MR. TRAVIS: Very good. Thank you.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: At this point I'll turn to our consultants for their comments. Bryant Cocks, Planning Consultant.

MR. COCKS: We have no further comments on the subdivision at this time.

CHAIRMAN EWASUTYN: Okay. Pat Hines, Drainage Consultant.

MR. HINES: We have some outstanding comments. Our first comment from last month was that there's several easements that need to be submitted to Mike Donnelly's office for review, the first one being the one that was just discussed to convey stormwater from the pond to

1 the existing stream. There's an easement, the
2 lands are formerly the Amity Foundation, for some
3 grading that needs to be submitted also.
4

5 I have several comments on the
6 stormwater management ponds, that we're awaiting
7 for a resubmission from the applicant's
8 representative. I know he's aware of those and
9 has those.

10 There's an issue with the ownership and
11 then the operation and maintenance -- long-term
12 operation and maintenance of the stormwater pond.
13 I believe that the applicants have been before
14 the Town Board to discuss that. I'm sure they'll
15 be able to fill you in on that.

16 Culverts need to be shown.

17 We discussed at work session, and Ken
18 Wersted may be able to weigh in more on the K-
19 value which I believe you were also at the Town
20 Board discussing.

21 That's the extent of our comments. We
22 are awaiting a resubmission to address each of
23 those. I left some of them out that have to do
24 with drainage.

25 CHAIRMAN EWASUTYN: Have you met with

1 the Town Board?

2
3 MR. BROWN: We met with the Town Board
4 last night. I have a meeting at 9:30 -- Jim
5 Osborne wasn't available for that meeting. I
6 have a meeting with him at 9:30 Monday morning to
7 get these issues resolved. The Town Board said
8 they didn't have a problem with it, but again
9 they need Jim Osborne's professional input. Jim
10 Osborne is the town engineer.

11 CHAIRMAN EWASUTYN: And the agreement
12 that you're looking for from Jim Osborne, they're
13 on what topics?

14 MR. BROWN: I'm sorry. The K-value and
15 the ownership of the pond are the ones before the
16 Town Board now.

17 CHAIRMAN EWASUTYN: Karen Arent.

18 MS. ARENT: I don't have any comments.

19 CHAIRMAN EWASUTYN: Ken Wersted on the
20 K-value. Do you want to just discuss that with
21 us?

22 MR. WERSTED: We discussed it at work
23 session. The Town has a requirement of a K-value
24 of 50 for this type of road. There's two
25 vertical curves along the roadway. Those two --

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actually there's three curves. Two of them meet that 50 value. There's one rated at 30, and that's below the Town standard. It has to meet applicable standards such as AASHTO.

MR. BROWN: It does meet AASHTO for 30 miles-an-hour.

MR. WERSTED: That gives the basis to the Town Board to grant that waiver.

MR. BROWN: On a crest curve 30 miles-an-hour is acceptable. The K-value is good on the crest curve.

MR. WERSTED: The requirement would be 19 in this situation and there is 30.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Any additional

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comments from the public? The gentleman in the back.

MR. HUGHES: Yes. My name is Hughes. I'd like to know the difference in the K-value. Is it the ascending or descending?

MR. BROWN: The K-value that they were discussing are for portions of the new road itself. The K-value is a factor that describes the curvature between two different slopes.

MR. HUGHES: I'm aware of what it is. Is it ascending or descending?

MR. BROWN: This is a crest curve.

MR. HUGHES: Instead of having 50 you only have 19?

MR. BROWN: 30. 30, which is acceptable by AASHTO standards for a 30 mile-an-hour road.

MR. HUGHES: That entire area is 30 miles-an-hour?

MR. BROWN: I don't think you can do 30 coming into this, but, you know, I wouldn't say nobody will go any faster than 30.

MR. HUGHES: For the case of the formula, could Mr. Wersted explain to us the

1 difference in what's missing and what distance
2 does that value come to at this point?

3
4 MR. WERSTED: I would have to calculate
5 the distances. It's a vertical curve coming from
6 an 8 percent to a 1 percent.

7 MR. BROWN: 10 to a 1. Positive 10,
8 positive 1.

9 MR. WERSTED: This is not your typical
10 crest where you think you're coming up at the top
11 of the a roller coaster and coming down the other
12 side. The 19 requirement by AASHTO is what's
13 required at that type of speed. They're meeting
14 a 30 so they're kind of in between what the
15 AASHTO requirement is and what the Town's
16 requirement is. The Town's requirement is
17 applicable to a 40 or 45 mile-an-hour speed zone.
18 The 19 would be applicable to a 30. So they're
19 going to be in between those two extremes.

20 MR. HUGHES: Is there an additional
21 sight distance problem here too or just the K-
22 value?

23 MR. WERSTED: I don't believe so, no.
24 The issue with the crest is that the road is
25 basically coming up and it's dipping down away

1
2 from you.

3 In terms of sight distance, your
4 headlights are naturally pointing slightly down
5 so it's less of an issue. That's why the
6 requirement for a crest curve is lower, because
7 your headlights are already naturally going down.
8 If you're at the bottom of a curve, a vertical
9 curve, and you're into a dip situation, your
10 headlights are at a disadvantage because they're
11 already pointing down and in that case in this
12 situation the requirement for the K-value would
13 be about 35 I think, 34. So it's a little bit
14 different of a situation depending on whether
15 you're going up a crest or down.

16 MR. HUGHES: Thank you for answering
17 those questions.

18 CHAIRMAN EWASUTYN: Any additional
19 comments from the public?

20 (No response.)

21 CHAIRMAN EWASUTYN: Before I move for a
22 motion to close the public hearing, I will need
23 for you to waive the 62-day decision time until
24 you submit the necessary revisions for the
25 stormwater management report.

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MR. BROWN: We will waive that, yes.

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing on the five-lot subdivision for Charles Pelella and William Bell subject to the applicant waiving the 62-day decision time period.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you.

MR. BROWN: Thank you.

CHAIRMAN EWASUTYN: Mike, we'll bring

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that back on the agenda before we make the final.

(Time noted: 7:12 p.m.)

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

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

DATED: April 27, 2009

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

----- X

In the Matter of

LANDS OF DISCIGLIO
(2009-02)

19 Shady Lane & 1450 Route 300
Section 63; Block 1; Lots 40 & 22.2
R-3 & B Zones

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: April 16, 2009
Time: 7:12 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
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE

----- X

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

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LANDS OF DISCIGLIO

MS. HAINES: The second project we have on our agenda tonight is the lands of Disciglio. It is also a public hearing on a two-lot subdivision located at 19 Shady Lane. It is in an R-3 and B Zone, it's being represented by Vincent Doce.

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

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Disciglio for a two-lot subdivision on premises 19 Shady Lane in the Town of Newburgh, designated on Town tax map as Section 63; Block 1; Lot 40. Said hearing will be held on the 16th day of April at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated March 17,

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2009."

MR. GALLI: The notice of hearing was published in The Sentinel on April 10, 2009 and in The Mid-Hudson Times on April 8, 2009. The applicant's representative sent out thirty-one registered letters, twenty-three were returned. The publications and mailings are all in order.

CHAIRMAN EWASUTYN: Please.

MR. DOCE: Good evening. My name is Vince Doce, I have an engineering, surveying and planning business located here in the Town of Newburgh. I'm here this evening to represent Joseph Disciglio and Lynn Warren in the matter of a lot line change located on the boundary -- along the boundary of their respective parcels.

Mr. Warren's parcel fronts on Union Avenue, on Route 300, and is approximately 3.8 acres in size, just short of 4 acres in size. Mr. Disciglio is located at the end of Shady Lane on a parcel of property that is about 1 1/2 acres in size. Mr. Disciglio has developed his parcel into an office park in which there are now presently two buildings with a third planned sometime in the future. That's all come before

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the Board several years ago and was approved.

Mr. Disciglio has a one-family house which has been in existence for some period of time. To the rear of Mr. Disciglio's house there is what we might call a pie-shaped piece of property of approximately 1/4 of an acre, a little bit less, that is owned by Mr. Warren but is not really integral with his parcel of property. When we were at the Planning Board meeting a couple of weeks ago it was mentioned that the Board might like to see some topo on this pie-shaped piece of property but that it was not significant enough that they would require us to do so. I, with the engineer on the project, Darren Doce, decided that it would be well just to show the contours there so that the Board and the public would know what the land was sloped like.

Now, when I say this piece, this pie-shaped piece is not integral physically with Mr. Warren's piece. Right here along Mr. Warren's property line the contours drop down. The contour lines are close together so there's a drop, not an appreciable drop but a drop,

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anywhere from two to four feet along this property line, then the property levels out. If you were to look at it it might look like it was part of Mr. Disciglio's backyard.

Mr. Disciglio is interested in acquiring that piece of property. Mr. Warren felt it was of no real use to him and that he would be -- he was more than happy to transfer the piece of property to Mr. Disciglio. Mr. Disciglio wishes to maintain it for his yard. Everything you see there today will be what you see there probably for a long time in the future. There are some very nice trees that are located there that Mr. Disciglio was interested in preserving, and he was also interested in having some buffer to the office park.

Across this whole pie-shaped piece of property that extends some 220 feet from this corner to this corner, this corner here is about ten, eleven feet, twelve feet higher than that corner there.

That is essentially what is being proposed there. It is not a subdivision in the true sense of a subdivision insofar as you're

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LANDS OF DISCIGLIO

just taking land from one owner and transferring it to another because it's conducive to the integrity of both parcels.

I was also asked last week to speak to Mr. Disciglio and Mr. Warren about any concerns that they would have between them of providing easements for any water outfall or of that nature. Mr. Disciglio told me he has no problems with this piece of property. He's not concerned about anything in the way of preserving any easement rights. Mr. Warren told me the same thing. He says I do not have any concern about transferring this to Mr. Disciglio and retaining easement rights. Mr. Disciglio would have been here this evening but this afternoon he had a medical emergency where his brother suffered a heart attack and he had to leave for New Jersey but he told me to relay that to you. I had expected that Mr. Warren was going to be here this evening but being a landscaper he may have gotten caught up on one of his jobs.

That's pretty much all I can tell you about it as pertains to this triangular piece of property shifting from here to there, and neither

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LANDS OF DISCIGLIO

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parcel you will not know tomorrow or next week that it even has been done because everything will look the same.

CHAIRMAN EWASUTYN: Thank you.

At this time we'll open the meeting to the public. If you would raise your hand, give your name and your address. Ma'am.

MS. ANDERSON: My name is Noel Anderson and I own Section 63; Block 1; Lot 44.2. I wanted to know if the recent construction encompasses my land?

MR. DOCE: Pardon?

MS. ANDERSON: The recent construction in the recent years encompassed my land.

MR. DOCE: Do the recent construction --

MS. ANDERSON: Constructions.

MR. DOCE: Encompass your land. I'm not quite sure what you're asking but all the construction is on Mr. Warren's piece of property. It does not encompass anybody else's piece of property.

MS. ANDERSON: Right. It's just that in passing when I go by my property there is --

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there's reason to question whether I would have some easement rights.

MR. DOCE: Are you asking Mr. Warren to give you easement rights on his property?

MS. ANDERSON: I don't know if his construction touches upon my property. That's my question.

CHAIRMAN EWASUTYN: Where exactly is your property?

MS. ANDERSON: It's Section 63; Block 1; Lot 44.2.

MR. DOCE: If it's where we believe it is Mr. Chairman, it is north of the parcel by --

CHAIRMAN EWASUTYN: She's Anderson.

MR. HINES: Can you explain in relation to Mr. Warren's property where it is? Is there a house on it? Is it vacant land?

MS. ANDERSON: It's not -- it's vacant -- it was vacant land when I purchased it, and my neighbor, I believe Mr. Warren, has a house next to it and then mine is a little further behind.

MR. HINES: There are no houses on the Warren property. Not this parcel anyway.

MS. ANDERSON: I think it is.

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LANDS OF DISCIGLIO

MR. DOCE: I think I picked it up. Was that property formerly Hobin?

MS. ANDERSON: Was it formerly?

CHAIRMAN EWASUTYN: You're saying 44.1 or 44.2?

MS. ANDERSON: 44.2.

CHAIRMAN EWASUTYN: That's 44.1, Vince.

MR. DOCE: It would have to be north of that.

Well to answer her question, no construction touches her property, or is on her property, or is proposed for her property.

MS. ANDERSON: It's further away. Okay. All right.

CHAIRMAN EWASUTYN: Additional questions besides Ms. Anderson?

MR. POMARICO: Michael Pomarico, P-O-M-A-R-I-C-O. Hi, Vince. I'm just wondering, on Lynn's property, this piece of pie-sliced shape, where is the detention pond?

MR. DOCE: The retention pond is up here.

MR. POMARICO: We currently have something -- we're in negotiations to pipe this

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out. I own the property just to the south side. I just wanted to make sure as far as access, is it going to create a problem? Does it have to go onto my property and then down the line more?

MR. DOCE: No. The drainage runs in this direction. The retention basin is here. As Lynn explained to me today, you, he and the Town, and I believe one other property owner there have made arrangements to direct drainage away from that property owner's house so that you could develop your property and get to some drainage beyond that property owner's house.

MR. POMARICO: It would be an easement from Shady and then an easement across the back of mine and then pick up Lynn's.

MR. DOCE: His line is here and all of the drainage structures are above that.

MR. POMARICO: Okay. So it won't go onto that piece of land?

MR. DOCE: No. In fact, that slopes in this direction.

MR. HINES: I raised that comment to Jim Osborne when this was here last month and he's aware. I haven't heard back from him but I

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know he's aware of this. I originally thought that the property -- the parcel that's receiving the property was the one that was concerned about the discharge from Lynn Warren's, but apparently it's the property immediately behind your land that had the concerns.

MR. POMARICO: Off this pond, yeah. What is the distance, by the way? Do you see where the stub road comes in, the back of my property? From there to where you're going to -- the retention ponds. I just wonder what that distance might be, rough guess.

MR. DOCE: I would say 120, 125 feet. From here to here, Mike, it's 97 feet right there, and you can see it's another --

MR. POMARICO: Okay. Thank you. I just want to make sure it doesn't encroach on what we're planning to do. That's all. Thank you.

CHAIRMAN EWASUTYN: Additional questions from the public?

(No response.)

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

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MR. HINES: Our only comment was we raised at the last meeting what we just discussed regarding Mr. Pomarico's property and Mr. Warren's property and the desire to connect to a proposed drainage system in Shady Lane. I'm told by all parties involved that this will not impact the ability to do that. The detention pond on Lynn Warren's is up gradient from this parcel that's getting transferred, and I believe the plans are to extend down the common property line of Vantage Construction.

CHAIRMAN EWASUTYN: Little Brick House.

MR. HINES: Little Brick House, that parcel and Lynn Warren's. I did mention to Jim Osborne and he was going to look at it also. I haven't heard that there is any concern regarding that.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: We had two clean-up items from the last meeting that have been addressed. One was just adding a third proposed office building on Lynn Warren's lot and the other was providing the fifteen-foot buffer strip between

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LANDS OF DISCIGLIO

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the two properties because they're a residential zone and a business zone. That's required under zoning. That's been addressed. The plans were forwarded to the Orange County Planning Department and we did get a response back with a local determination.

CHAIRMAN EWASUTYN: Final comments from Planning Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing additional.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Nothing.

CHAIRMAN EWASUTYN: Any additional comments from the public?

MR. POMARICO: One more thing.

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

MR. POMARICO: Mike Pomarico again. Will there have to be a buffer off of -- now

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LANDS OF DISCIGLIO

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that's going to become residential technically,
right, that little slice?

MR. DOCE: No. The zoning won't
change.

MR. POMARICO: Okay.

MR. DOCE: There is a buffer that's
been placed along the use there.

MR. POMARICO: How far does that buffer
come into my property?

MR. DOCE: It just runs down between
here. Anything you did -- I suppose I'm
answering for the Board. I believe anything that
you do when you come in for your site plan, you
will have to address those same types of
concerns. This won't affect you at all.

MR. POMARICO: We're supposed to have a
twenty-foot easement across the back of mine. I
presume that will also have to follow this way.

MR. DOCE: I believe it's going this
way I think.

MR. POMARICO: It's going to have to be
cleared, though.

MR. DOCE: That would be between you
and this Board.

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LANDS OF DISCIGLIO

CHAIRMAN EWASUTYN: Pat, Bryant, do you hear the question?

MR. HINES: I believe you're referring to a buffer, not an easement.

MR. POMARICO: The right side of that, the vertical part of that, what would be the crust of the pizza? Forgive me, my name is Pomarico. That 90 some odd foot patch, if I have to have that cleared to put piping in there, cutting trees and all that. I don't want to later be told you have to plant that, you have to do that and berm it and all that stuff. To me I was supposed to just do the back of my line and Lynn is supposed to connect to that. Actually he's supposed to do the back of my line. I'm supposed to do the back of my line to Shady. I don't want to put the onus on me to do a bunch of additional work if that becomes a buffer that can't be touched or it has to be reworked or massaged in some way.

MR. DONNELLY: I believe the buffer requirement relates to residentially zoned properties. The zone line is not being changed here. Am I correct?

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LANDS OF DISCIGLIO

MR. COCKS: The zone line is not going to change. Your concern is if you're doing work and you have to provide a fifteen-foot buffer like you're doing, you have to now replant it if you have to knock stuff down to put piping or whatever underneath it. By zoning it will be required.

MR. HINES: The Town is going to get an easement. That's going to be a joint Town project with the two commercial properties. The Town is not going to want that easement planted. They're not going to require -- they will not allow you actually to plant that easement area for access.

MR. POMARICO: For the record, what we're doing with the lands is that -- anything across the back of my property up to Lynn's is his responsibility. Anything from the corner of my property to Shady is my responsibility. From Shady down to that creek is the Town.

MR. HINES: I've been involved in the other conversations. I don't know how that work was divvied up. I am aware that there's that project.

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LANDS OF DISCIGLIO

MR. POMARICO: I just want to make sure that there's no hindrance on me. I'm already well into the site planning, engineering and things and I don't want to be told you can't clear that now and run a pipe because it butts up to residential.

MR. HINES: I think the Town of Newburgh wants that project also to occur.

MR. POMARICO: That works for me then.

MR. GALLI: The comment is it is residential behind there, behind you. The buffer regulations change between residential and commercial; right?

MR. HINES: To fifteen.

MR. COCKS: A fifteen-foot buffer is required for in between those two properties, but Pat is saying that if the Town is involved in an easement, they don't ever want plantings over an easement in case any work has to be done. I think they're going to be the ones that have to say no plantings. This buffer is not going to be required because there's an easement.

MR. GALLI: He comes back to us with this project and all of a sudden they have a

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LANDS OF DISCIGLIO

public hearing and the people that live in that neighborhood are going to say where is all the buffering guidelines and design. When you tell them the Town put an easement on that property so they can't do it --

MR. HINES: It will only be in that narrow strip there. It will be the Disciglio parcel that's not getting buffered here. The rest of that is a paper street, it's not owned by either of the applicants, any of the three parcels we're talking about here. It's owned by the Town.

MR. POMARICO: The property line travels about 150 feet to the south.

MR. HINES: There is a requirement of a buffer there. That portion that's not easement will have to be buffered. It would be regardless of the drainage project or not because the regulations have changed.

MR. POMARICO: Are we going to have to add buffering from the easement into my property? I don't want to be on the hook for this.

MR. HINES: That they're telling me now is going to remain the same zone, so it won't be

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residentially zoned.

MR. POMARICO: It's B zoned, the residential behind it.

MR. HINES: You'll be abutting a B zone there. You'll be abutting the same B zone as you are today is what I'm hearing.

MR. DONNELLY: The rest of it is in an R-3.

MR. HINES: Along the rear there is that requirement. It's new since your project has been here last.

CHAIRMAN EWASUTYN: Any additional comments from the public?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion -- Ken Mennerich.

MR. MENNERICH: Lot number 1 is going to have R-3 zoning and a piece of B zoning?

MR. DOCE: Yes.

MR. HINES: It's not uncommon in that area.

MR. MENNERICH: Okay. All right.

CHAIRMAN EWASUTYN: Any additional comments from the Board Members?

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LANDS OF DISCIGLIO

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing on the two-lot subdivision for the lands of Disciglio subject to the conditions of the resolution that Mike Donnelly will review with us at this time.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Frank Galli. At this point I'll open it up for discussion here for the conditions by Mike Donnelly.

MR. DONNELLY: Firstly, because you're waiving one of the required elements of subdivision approval, that is the showing of detailed contour lines --

CHAIRMAN EWASUTYN: He has that now. He has shown that.

MR. DONNELLY: You showed all the contour lines?

MR. HINES: It's only in the pie shape. He only showed it for clarity.

MR. DONNELLY: Technically the regulations require it for all of the parcels

1 that are involved. You're showing it for only a
2 portion. The Planning Board has authority to
3 waive those required elements under appropriate
4 circumstances, however the regulations require
5 that when you do so you state specific findings
6 as to your reason for doing so. So I've included
7 language in the resolution that says the Planning
8 Board, and this is in the findings section, has
9 further determined that strict compliance with
10 the requirement of Section 163-7(b)(4) of the
11 subdivision regulations that require showing full
12 topographic information on the plat, because of
13 this applicant's unusual hardship or
14 extraordinary difficulties because no more than a
15 boundary line adjustment is proposed, nothing
16 will change in the field, therefore pursuant to
17 the authority granted by Section 163-23 of the
18 subdivision regulations, said requirement is
19 hereby modified so as to allow the plat to be --
20 the lots on this plat to be subdivided without
21 showing full topographic information because the
22 public inconvenience, et cetera will be served.

24 In terms of conditions, there are only
25 two which come from your standard lot line change

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-- lot line adjustment approval, and that is the requirement that a map be filed, obviously showing the subdivision, that no deed can be recorded until the map is filed, and that you present proof to the Planning Board by copy of your letter of transmittal and ultimately a photocopy of the deed with liber and page information on it after it has been recorded, and I'm here speaking of the deed for the parcel that we've called the pizza to be conveyed.

MR. DOCE: Okay.

CHAIRMAN EWASUTYN: Having heard conditions for approval for the two-lot subdivision, I have a motion before us by Frank Galli, a second by Ken Mennerich. Any further discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Myself yes. So
carried.

MR. DOCE: Thank you.

(Time noted: 7:34 p.m.)

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

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

DATED: April 27, 2009

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

----- X

In the Matter of

EXETER BUILDING CORP.
(2002-26)

South side of Route 17K
Section 89; Block 1; Lot 1.1
R-3 Zone

----- X

AMENDED SITE PLAN

Date: April 16, 2009
Time: 7:34 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: RICHARD GOLDEN

----- X

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

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EXETER BUILDING CORP.

MS. HAINES: The next item of business we have tonight is the Exeter Building Corp. It's here for an amended site plan. It's located on the south side of Route 17K in an R-3 zone and it's being represented by John Petroccione.

MR. GOLDEN: John Petroccione could not be here this evening. It was a much easier name if I would have let you know. Richard Golden representing the applicant from Burke, Miele & Golden in Goshen, New York.

We are here before you with respect to asking for an amended site plan. We received a site plan approval on December 20th of 2007. We had previously obtained a subdivision approval in connection with the lot line adjustment that was filed in January of 2006 after approval by this Board.

Having had some problems in connection with this, because the Town rezoned the area just prior to approvals, there was some litigation involved in which ultimately, after appeal, the court found that Exeter Building Corp., the applicant, was vested to all the rights of the zoning prior to the rezone and therefore could

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2 proceed with the application as he had it. That
3 statutory vesting, however, lasted only three
4 years from the filing of that subdivision lot
5 line change which expired in January of 2009.
6 During that time, however, an applicant has the
7 right to improve the property to such an extent
8 that the applicant is vested with the old zoning
9 under what is called common-law vesting rather
10 than the statutory vesting that the court had
11 granted. We believe that we have done that.

12 I understand that you have recently
13 received a letter, today or yesterday, from the
14 building inspector in which he simply indicates
15 that the statutory vesting is up, not addressing
16 at all the common-law vesting but indicating
17 that, and I'm quoting from his letter of April
18 14, 2009 to the Chairman, "The use of the
19 property proposed in the above-referenced
20 applicant's request for amended site plan
21 approval is not permitted in the R-1 zoning
22 district."

23 We believe that we are entitled to the
24 prior zoning and therefore what we're asking for
25 in the amended site plan is appropriate.

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EXETER BUILDING CORP.

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However, we had this problem with the building inspector taking a different interpretation. We will have to appeal the building inspector's decision to the ZBA, and we will do so in a timely manner.

We are ready, willing and able to proceed before this Board with the amended site plan, however it doesn't make a lot of sense for us to take up my client's time and money in proceeding through this, and taking up this Board's time and energy, and your consultants', in reviewing something if at the end of the process of review and you're ready for a decision, your decision will be we can't approve it because we have a building inspector's letter that says that this use isn't permitted so therefore we can't approve it. So there's no sense in really going through that if in fact your determination at the end of that process of the amended site plan request that we have before you is that you won't grant an approval as long as this building inspector's letter is still live so to speak.

So what I am here tonight for is to ask

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EXETER BUILDING CORP.

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you if you are open to approving it notwithstanding this letter, or whether or not you will be relying upon this letter and saying that you are foreclosed from approving our request for an amended site plan because the building inspector has determined that it's not a use that is permissible.

The dilemma that I face is that if I simply withdraw my application without that determination and ultimately have to appeal possibly an adverse ZBA decision to the court, the courts have in the past in such circumstances said well, you're really here before us prematurely because you could have gone before the Planning Board and maybe they would have granted your request, and so there's no need to be before us so we'll dismiss the case and now you have to go back before the Planning Board. That would not make a lot of sense.

So if you are open to approving our request, then we will proceed with our site plan review before you. However, if not unreasonably, you would say we're not going to be able to approve it because the building inspector's

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EXETER BUILDING CORP.

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letter ties our hands, I understand that completely. I just need that statement from the Board, that in fact you would not -- as long as this letter sustains, that you would not be able to approve it, and then I will have fulfilled my obligation before the court of exhausting my administrative remedies.

CHAIRMAN EWASUTYN: Before I turn to Mike Donnelly to cover the essence of what you're bringing forth tonight, I'll ask the gentleman in the back if you have conversation, by all means take it outside. We have a meeting going on now and it's disrupting the meeting. Thank you.

Mike Donnelly.

MR. DONNELLY: As we discussed at the work session, and I think Rick has outlined it very closely to what I outlined for you, I believe, and I don't tie it exclusively to the letter but I tie it to what the letter reports, and that is that the three-year protection has expired therefore the property is now zoned R-1 and the amended application before the Board would not be approvable in the R-1 zoning district.

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My recommendation to you would be that you would have no choice but to disapprove this application after you've completed review of it unless within that time period there was a determination by some official or body, be that the building inspector, the Zoning Board of Appeals or a court, that common-law vested rights entitle the applicant to continue to move forward.

So that if what the applicant is asking is do you agree that you would disapprove it at the end of the day as the record currently stands, it would be my advice to you that you would have to do so, and that therefore I believe you could report to the applicant that which in a strange way he wants to hear.

MR. GOLDEN: I would love for you to say you're open to it but I very much appreciate the position you're in and the opinion of your building inspector. I just don't want to take the time and effort of going through the review of the amended site plan application and at the end of the day you say that was very nice however we're not going to approve it.

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EXETER BUILDING CORP.

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CHAIRMAN EWASUTYN: I'll ask for a consensus of the Board Members whether the Board would disapprove the action as it's proposed for the Exeter site plan.

MR. GALLI: I wouldn't approve it, no.

MR. MENNERICH: I wouldn't approve it.

MR. PROFACI: I would disapprove it.

MR. FOGARTY: Disapprove it.

MR. WARD: Disapprove it.

CHAIRMAN EWASUTYN: Disapprove it.

MR. GOLDEN: Thank you very much. Given that, there's no need for us to proceed forward. We will proceed before the ZBA, try to get the building inspector's decision overturned, and if we're not successful there, in the court. If in fact we are successful in getting it overturned we will return to you, providing everything else is appropriate, to get on with the amended site plan application.

CHAIRMAN EWASUTYN: For the record Michelle, I'll give you a copy of the letter that we received, as Mr. Golden had said, from Tilford Stiteler, code compliance department, dated April 14, 2009.

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EXETER BUILDING CORP.

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MR. GOLDEN: Thank you very much.

(Time noted: 7:43 p.m.)

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

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

DATED: April 27, 2009

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

----- X
In the Matter of

GASLAND PETROLEUM
(2008-01)

Route 17K & Homewood Avenue
Section 95; Block 5; Lot 9.2
IB Zone

----- X

SITE PLAN

Date: April 16, 2009
Time: 7:44 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHRISTOPHER LAPINE

----- X

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

1
2 MS. HAINES: The next project we have
3 is Gasland Petroleum. It is a site plan located
4 on Route 17K and Homewood Avenue. It is in an IB
5 Zone and being represented by Christopher Lapine.

6 MR. LAPINE: Good evening, Mr.
7 Chairman, Members of the Board. My name is
8 Christopher Lapine, I'm with the Chazen Company.

9 This is a project that appeared before
10 you in August of 2008 at which time we were
11 seeking conceptual approval. We were referred to
12 the Zoning Board for a front yard variance and a
13 landscaping variance at which time we also
14 realized we needed a side yard variance as well
15 as part of the original. We were before the
16 Zoning Board in November and January and it was
17 determined that the Zoning Board would grant both
18 the front yard and the side yard variance but
19 they would not grant the landscape variance which
20 we requested.

21 As a result we've amended our site plan
22 which is before you this evening to reflect a
23 thirty-five foot landscape setback. As a result,
24 our front yard setback for the building
25 ultimately became sixty when you include the

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lanes and some landscaping along the building.

Following our appearances before the Zoning Board we then took the comments generated by the various consultants to the Town. In some cases we were asked by the Zoning Board to work with the landscaping consultant to get her assessment of our plan and whether or not we would meet the needs of the Town with the plan that we've developed. In some cases we had two submittals to Karen in between. We consulted with the Chairman to obtain permission prior to doing that. So we've been working with Karen quite often. We've also addressed comments from your town engineer, your planner and your traffic consultant. I am in receipt of their latest comments this evening. I'm prepared to address any other comments they may have. I'd like to open it up to the Board for any comments they might have on the project.

CHAIRMAN EWASUTYN: Christopher, you had spoken with Dina earlier this evening about you had some architectural renderings also.

MR. LAPINE: Yes. I had received them this morning and I asked if I could possibly just

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show some Members of the Board.

CHAIRMAN EWASUTYN: You can show everyone. If you can put them up on the easel now.

MR. LAPINE: I was actually provided 11 by 17s. If I can approach the Board.

MS. HAINES: I'll just take one and pass it.

MR. LAPINE: Sure. I think if you take just the front elevation you'll get a sense of what the architect is proposing here.

The side of the building would consist of a brick and stucco and there would be an architectural style shingle along the roof. That's the canopies that are proposed for the building. Obviously the roof lines are going to not be your typical roof lines as a result of the configuration of the building, especially that to the west. You'll have a drive-through which will be located to the rear.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: I just saw the drive-through in the back and I remember --

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MR. LAPINE: One of the previous -- the previous plan showed the drive-through facing 17K. We were asked if we could relocate it to the rear, and that's what we've done on this submittal.

CHAIRMAN EWASUTYN: You had a comment, Ken Wersted, about seventy-five feet as it related to the rear.

MR. WERSTED: Yes. Just providing the striping in between the bypass lane and the actual drive-through window lane to help a driver pulling around there to designate what side of that drive aisle they should be in.

CHAIRMAN EWASUTYN: Frank, your opinion on the proposed building the way it's shown?

MR. GALLI: I mean it's -- from what I can see it looks all right.

MR. LAPINE: The intent would be to utilize the same brick on the columns of the canopy and have some sort of a hip roof similar to what's being shown on the plan, one that hides the overhead equipment.

CHAIRMAN EWASUTYN: The fire suppression system?

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GASLAND PETROLEUM

MR. LAPINE: Correct.

CHAIRMAN EWASUTYN: Interesting.

MR. MENNERICH: Would it have the similar color arrangement on the canopy over the pumps?

MR. LAPINE: Yes.

MR. MENNERICH: It's an interesting building.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I think it's extremely impressive for what it's meant to be used for. It's great. Nice job.

MR. LAPINE: I guess it's a general consensus we're moving along the right path.

MR. FOGARTY: This is going to be a gas station and convenience store?

MR. LAPINE: Yes.

MR. FOGARTY: What is the drive-through for?

MR. LAPINE: That's for the Dunkin Donuts.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Where is the location itself on 17K?

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GASLAND PETROLEUM

MR. LAPINE: It's the intersection of Homewood Avenue and 17K. I-84 is slightly to the north, I'd say probably about 600 feet.

MR. WARD: Is it across the street from Governors --

MR. HINES: Yes. There's an existing gas station there. They're going to replace the existing one.

MR. WARD: It's right in that -- okay. Thank you.

CHAIRMAN EWASUTYN: Comments from our consultants as it relates to the site plan. We'll start with Pat Hines, Drainage Consultant.

MR. HINES: My first comment is I owe Mr. Lapine the standard notes. I thought they were attached to the comments. I'll make sure he gets those.

I believe the building is required to be sprinklered under the Town of Newburgh Code, not the New York State Building Code.

MR. LAPINE: We're talking to Jerry about that.

MR. HINES: You'll have to revise your water line layout and details with that. You

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sent a drainage report for the redevelopment of the site. That was fine. I do want to get a handle on where that trench drain that currently drains the site goes to. I think you should probably clean it out now and get it working.

MR. LAPINE: Unfortunately we were asked to keep it down in the back. We were talking about your comment regarding the trench drain, that you were asking for it to be cleaned out. I asked him and this is something he could have done tomorrow.

MR. HINES: Just to get a handle on where it truly is going.

I had a concern you showed bumper blocks or curb blocks instead of the curbing, or is that in addition to the curbing?

MR. LAPINE: It's in addition to the curbing. The intent was what I've seen in establishments like this, some people tend to park as close to the curb as possible and they overhang and infringe upon people's ability to walk into and out of the building. Our client likes to keep that at a minimum, obviously for handicap purposes a foot minimum. This would

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ensure that we have that.

MR. HINES: I don't necessarily have a problem with that. I think it might be a snowplowing issue for you in the future. How do you maintain that between the bumper block and curb? We'll have to take a look at that further.

Blasting on the site and the landscaping, I just noted for Karen there's a thirteen or fifteen-foot high potential rock face wall proposed to be exposed in the rear of the property based on the current grading plan. There's some rock exposed there now and it's going to be moved back. I'll defer to Karen on the aesthetics of that when that's left there.

Also, how are you going to tie into the segmental block wall and rock wall? There should be a detail of that if in fact that's what you go with. Just for the Board to be aware that rear corner towards 84 to the east is a fifteen-foot cut which currently shows rock and most likely is. You may have a little bit of a quarry effect going around the back of the building there. If in fact that's what the grading plan has, then there should be fencing and a detail for the

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fencing on top of that. That's a pretty steep drop off there. Just change the detail. The detail shows a max height of six feet and you'll be beyond that in several locations I believe. That was just a dumpster wall?

MR. LAPINE: That's just the dumpster wall. Your comment was referring to we have a segmental block wall or brick wall that's going to match the building, so that's six feet high, and it was going to tie into the retaining wall that's in the rear of it, or the exposed rock wall.

MR. HINES: You're showing some wall where the rock face is into the rear of the building. On either side of that there's some walls that aren't detailed.

MR. LAPINE: This is the one -- right here and over here?

MR. HINES: Right there, yeah.

MR. LAPINE: These are the two that we want to discuss with the Board. As you indicated earlier, it's an existing rock face out there and it extends out to approximately the edge of the proposed loading area all the way around the

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building. The applicant would like to utilize that existing wall as the elevation difference as opposed to putting up another wall for the purposes of a retaining wall.

MR. HINES: It won't be the existing wall. The existing rock face is probably only three or four feet high.

MR. LAPINE: In some cases this existing rock face wall here is ten feet high.

MR. HINES: It is? Okay. It must be hidden by the building there.

MR. LAPINE: In some cases it's hidden by a little bit of vegetation that's occurred on top of it. This is a picture of the wall that I brought with me this evening. I've got some other ones for the Board as well.

CHAIRMAN EWASUTYN: You can circulate that among the Board Members.

MR. HINES: I really don't have a problem with it as long as it's competent bedrock and not constantly exfoliating into the driving lanes. Just the aesthetics. I just wanted the Board to be aware that's going to be the case, when you're going through the drive-through

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there's going to be a significant wall between the building and the drive-through there.

MR. LAPINE: One thing Karen and I were talking about and what we're trying to address with the landscaping plan is vines that will eventually grow over top of them to try to make it a little more aesthetically pleasing. It's like a cliff right now.

MS. ARENT: Chris, when we were discussing during our meeting that if you hit rock and someone felt it was potentially unsafe and not able to be stable, that you would put a retaining wall in front of that rock.

MR. LAPINE: Correct. I provided as part of this application cut sheets of those.

MS. ARENT: I'm just wondering if there's enough space between the property line and the drive-through lane to do that.

MR. LAPINE: Yes. The block that's chosen is the strong block which doesn't require any geogrid reinforcement. It can be stacked one on top of the other. That's why we've chosen that block. It has a maximum area of about I believe two-and-a-half feet, thirty inches.

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MS. ARENT: Two-and-a-half feet? It doesn't look like there's that much space there with the rock.

MR. LAPINE: Let me take the scale out. I believe we have a little over five.

MS. ARENT: There's going to be enough space for the vines if you put that in there?

MR. LAPINE: Between the curb and the property line we have seven feet. We actually have a project right now where we're using it in Poughkeepsie, similar type situation, where we had a limited distance which wouldn't allow us to use any tie back and we've gone to this type of a block because of the ease of installation, and you don't need the requirement of digging back ten feet in order to place it, you just stack it one on top of the other.

MS. ARENT: They don't set back?

MR. HINES: Probably a quarter inch each or something.

MR. LAPINE: Maybe a quarter inch at the most. We have one right now that's -- you've constructed it. It's about a quarter of an inch set back.

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GASLAND PETROLEUM

MS. ARENT: Two feet width to three feet width total?

MR. LAPINE: Two-and-a-half feet approximately. So we have seven feet between the curb line and the property line.

MS. ARENT: Do you have a picture to show the Board of what that would look like?

CHAIRMAN EWASUTYN: He gave us a color rendering of that.

MS. ARENT: Of the block wall. Okay, great.

MR. GALLI: Where is that wall going up in Poughkeepsie?

MR. LAPINE: On Route 44. Do you know where the Purple Parlor Car Wash, Arlington Diner, Dunkin Donuts is? We're on the opposite side of the Purple Parlor Car Wash on 44 right past Adam's.

CHAIRMAN EWASUTYN: Pat, any additional comments?

MR. HINES: That's all our comments. We'll take a look at that wall. If the Board is okay with it we'll do some further review.

CHAIRMAN EWASUTYN: Is the Board okay

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with that wall?

MR. GALLI: So far, yeah. The style wall that he's going to use, I mean we've never used that type of wall around here.

MR. HINES: Yeah. It reminds me of the ones, and thank God Cliff is not here, behind the Lawrence Farm building, several of the walls they built to the rear of the --

MR. GALLI: Meadow Winds building.

MR. HINES: Those are large segmental block. They're almost vertical and they don't have geogrid.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I guess my concern is, and I've seen those, I'm not sure that I've seen the ones that are proposed for this, but if they're like the ones up at Meadow Winds they're very big. I guess I could see if you needed to put something at the base because some of this rock could peel off and slide down in the winter or whatever. I think I'd rather see -- if the rock is stable I'd rather see the rock than to have this artificial wall of cement.

MR. HINES: I think that's their

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intent.

MR. LAPINE: That's what our intent is.

MR. MENNERICH: So how high up --

MR. LAPINE: During the course of construction if it is determined that the rock is not structurally sound, if it's determined just to be shale of some nature, we would come back before the Planning Board with this wall and determine if it's acceptable, the type and color you would like to see for that.

MR. MENNERICH: How high would you envision it would have to be?

MR. LAPINE: In the rear where Pat is discussing we have a maximum height of --

MR. HINES: Thirteen I think.

MR. LAPINE: It fluctuates between thirteen feet to the rear and here to the east it's fifteen feet.

MR. HINES: Then it goes down to nothing.

MR. LAPINE: Then it drops down. It drops down to a foot.

MR. GALLI: Fifteen feet without geogrid.

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MR. MENNERICH: I hope the rock is strong enough.

MR. LAPINE: It's a large block, that's why you're not using geogrid, and it's all concrete filled internally. You have the stonewall to it but internally it's concrete filled.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I agree with Ken, I would rather see the stone. If worse comes to worse and we have to use it, I'm okay with the block.

MR. GALLI: If it has a stone face. A nice stone face.

MR. LAPINE: That's part of the whole submission.

MR. MENNERICH: I didn't get the new drawings.

MR. FOGARTY: I just have one question. Is this wall going to be strong enough if that rock begins to peel off? Is it strong enough to prevent the wall from caving in and things like that?

MR. LAPINE: Yes.

CHAIRMAN EWASUTYN: Walls of this

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nature that are proposed have to be designed and stamped and approved by a licensed engineer, Tom.

MR. FOGARTY: Okay. It looks nice.

MR. HINES: It would also be backfilled. There wouldn't be air between the wall and the rock, there would be material.

MR. FOGARTY: So there's no space between the wall -- okay.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: My question is is there a standard for how high they can go with this wall?

MR. HINES: Yes.

MR. GALLI: It gives you all the specs in there. There's fifteen feet without geogrid.

MR. HINES: Anything higher than four feet we require it to be individually designed. That's nice for information but it's not something the Town would accept.

MR. LAPINE: The intent here was to give you a sample of the cut sheet. That type of wall that we're proposing can go up to fifteen feet high with just the gravel backfill. When you exceed fifteen feet high they typically require a concrete backfill along those sections.

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CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant.

MR. COCKS: You were also before the
ZBA for the LED sign and that was denied.

MR. LAPINE: Right now there are -- I
spoke to the attorney representing the applicant
on that. That's a separate matter which I'm not
involved in but he sent me an e-mail today.
There's four violations associated with that, one
being the size of the sign not being in
conformity with the Zoning Code, lights not being
diffused, an extra fuel sign and a neon sign in
the window. The owner has removed the neon sign
in the window, he's removed the extra diesel
sign. It's been determined that the sign
actually is in conformance with the Zoning Code
because he has three front yards along his
property line. They were only looking at Route
17K. The issue of the light not being diffused
is being discussed with the town attorney and the
applicant's attorney.

MR. COCKS: Okay. With the
architectural review we usually do a
comprehensive signage plan.

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MR. LAPINE: Correct. We're going to -- I got this this morning.

MR. COCKS: When you guys figure it out.

MR. LAPINE: I said to the architect give me what you've got, if I can get it before the Board so we can make sure we're going in the same direction. I told him to stop, this is where we are, and we're going to include the signage as part of our architectural review.

MR. COCKS: Sounds good. Part of the Town of Newburgh design guidelines is trying to set -- the parking spaces should not be in front of the site. I know this is a very confined site and they do provide parking in the front of the building. You have to add those six spaces down at the bottom. That's not recommended in the design guidelines but they are providing a stonewall around that to screen the front of the cars. I just want the Planning Board to be aware of that.

MR. LAPINE: There is a significant amount of landscaping going in front of those stonewalls as well. Those walls are -- they

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should be three feet high so they'll block the grill of the cars.

CHAIRMAN EWASUTYN: This is a restricted site as far as complying with some of the design guideline standards as it relates to that.

MR. COCKS: Yes. I just wanted you to be aware of it in case you have to waive it during the resolution process.

You showed a bollard detail in the back.

MR. LAPINE: Correct. The bollards are located at these two corners of the building. Just in case a car swerves, we don't want it to hit the building.

MR. COCKS: If we could just see that on the site plan. Are they also proposed around the gas --

MR. LAPINE: They're here, here, here and here.

MR. COCKS: There's none around the gas pumps actually?

MR. LAPINE: No.

MR. COCKS: The parking detail is shown

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as a single stripe. The Town of Newburgh uses the double striped lines. That just has to be revised.

We're going to also need to see a lighting plan for the site. The design guidelines also recommend using pedestrian style lighting, so try not to go over fifteen feet and provide the detail.

We are going to need a sewage flow approval letter from the City of Newburgh before final approval can be granted.

This is a Type II action but we do need to forward the plans to the DOT and the Orange County Planning Department for their review. That was all.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect.

MS. ARENT: One of my concerns when I met with Chris was that big wall or the possibility of the rock outcrop in the back. We worked out a contingency plan so if the rock wasn't stable he would put in the big walls.

There's also a planting space where we're planning to grow vines to try to cover up

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some of that. The idea was to use vines similar to the vines that they use at an ivy league school and to mix them up so there's a variety of vines that would some day cover that wall if indeed it is a wall, or even the rock face.

One of the things that remains to be done on Chris's plan is to show a detail of that planting area so we make sure there's going to be enough soil in there for the vines to grow. We also spoke about the possibility of providing irrigation there to make sure the vines will grow.

MR. LAPINE: For the first couple of years.

MS. ARENT: That will help soften up -- it will take a couple years to soften it up but it would be something to help the visual impact of that wall.

I also had a comment about the wheel stops because I have an older mother that can't see well and I find the wheel stops to be a big tripping hazard. In the Town of Montgomery what they allowed when there was a curb and a sidewalk was for the whole curb and sidewalk to move in

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making the parking space in fact two feet less of asphalt but the overhang of the car would still overhang the concrete sidewalk. It's kind of the same thing as the wheel stop but it eliminates the wheel stop. I don't know if that's legal in Newburgh, to do something like that, but it makes a much cleaner design, easier to plow and eliminates a tripping hazard.

MR. LAPINE: As it relates to the handicap parking, it's not legal. They have to have that required depth. You can't go below the eighteen feet.

MS. ARENT: That's an idea to try to minimize or eliminate the wheel stops.

I'm just asking for as detailed of a proposed stonewall to be included with the drawings.

MR. LAPINE: We have that in there. I think some of the comments we had were everybody wanted it three feet high as opposed to two feet. We'll increase that to two feet in height.

MS. ARENT: They're saving a lot of the landscaping that's there. It's actually pretty nice. So a lot of that is being saved.

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MR. LAPINE: Correct.

MS. ARENT: They're supplementing a little bit of landscaping behind that. A lot of what's there is going to remain.

The big important design consideration architecturally is the canopy because that's what you're going to see more than the building. The building is kind of tucked back behind a knoll, a berm that comes out that hides the building from Route 17K. The canopy is right out on the two roadways, and that's -- that has the biggest impact so that's very important to --

MR. LAPINE: We had shown you while you were working with us during the Zoning Board review process samples --

MS. ARENT: That was very nice.

MR. LAPINE: -- of those canopies. That's the same type of canopy that we intend to show to the Planning Board during the architectural review.

MS. ARENT: The canopies are very similar to this building and they're very nicely designed. It would be very nice to see something like that.

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With this type of building you're going to need mechanical units and air compressor units because of the roof being -- unless you're coming in maybe on the back of the roof to place these units. If they are going to be on the ground we need to see them. If they are going to be on the roof, we need to see where they're going. Just make sure the site plan or architectural drawings show that.

MR. LAPINE: Okay.

MS. ARENT: That's it.

CHAIRMAN EWASUTYN: Ken, I know you had some minor comments.

MR. WERSTED: The first was the drive-through striping that we talked about earlier tonight.

The second was looking at truck access. The underground tank storage area remains unchanged, so the trucks that are accessing the site now will continue to access the same way. The delivery area can accommodate a single unit truck circulating behind the building as well as a short tractor trailer for whatever scheduled deliveries would occur.

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The last comment -- we did have another comment about the drive-through exit, it being one way the stop bar just encompass both exit lanes, not just one side.

MR. LAPINE: Okay.

MR. WERSTED: Our last comment had to do with the trip generation. If you would like I can go into a little bit of background as to what trip generation is as far as the numbers. Trip generation basically describes the amount of traffic coming to and from a site. One trip would represent one vehicle either entering or exiting. One of the concerns that we had early on was that this project has twelve fueling positions and it has about a 1,500 square foot convenience store now. The number of gas pumps and fueling positions isn't changing, however the convenience store is doubling, almost tripling in size. The way trip generation is generally calculated for projects is the transportation engineers have gone through and they've looked at a number of -- hundreds of gas stations and counted how much traffic comes in and out and correlated that to the number of gas pumps they

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2 have or the square footage of the building. That
3 way when you're looking at a new project you can
4 say I've got twelve gas pumps and based on these
5 hundreds of studies it should generate
6 approximately X amount of vehicles. That's
7 what's used to go into the trip generation or the
8 traffic analysis to determine what the impacts
9 are. So the concern we had here was that the gas
10 pumps were staying the same but the convenience
11 store was doubling or tripling in size. That
12 would translate to a doubling or tripling of the
13 amount of traffic coming in on the site. We
14 asked the applicant to do an analysis. They
15 hired Fitzpatrick Engineering to do that
16 analysis. They went out and looked at the trip
17 generation of the site during the morning and the
18 afternoon, which is typically when you have a lot
19 more people commuting back and forth to work,
20 stopping to get gas and so forth. They took the
21 trip generation of the site and compared it to
22 what ITE would say if this was a new project.
23 The numbers were closely correlated with each
24 other, both what the site generated today with
25 what it -- what ITE would predict. So it's in

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2 line with those estimates.

3 The other aspect that they did was look
4 at who the people were and what they were
5 purchasing when they came to the existing site.
6 They had calculated that between 55 and 65
7 percent of the customers coming in were there to
8 purchase gas, and approximately I think 10
9 percent were there to purchase gas and
10 convenience store items, about 30 to 35 percent
11 were actually there just to purchase convenience
12 store items. So clearly the majority of the site
13 was used as a gas station. With that arguably
14 you could say that because the pumps aren't
15 changing and the primary use of the site is a gas
16 station, that the trip generation of the site
17 isn't going to really change that much going from
18 a twelve-pump station with 1,500 square feet of
19 convenience to a twelve-pump station with 3,400
20 square feet of convenience.

21 I think part of the idea of the
22 redevelopment is that it will take more of your
23 gasoline customers and not only sell them gas but
24 sell them some more convenience items that they
25 can get with a larger variety.

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So with that, boiling that down into a comment, we agree that the project itself isn't going to change very much in terms of its existing trip generation to what will happen afterwards. There might be some nominal increase just because you have a larger convenience store but it's not going to -- we don't believe it's going to translate into a doubling or tripling in accordance with the square footage of the convenience store. We think it's more closely tied with the pumps, the number of pumps that are provided. So it's going to remain relatively consistent from today, what you see out there today, to after the proposed project.

CHAIRMAN EWASUTYN: Comments from new Board Members. John Ward?

MR. WARD: I've got a question. You're increasing the square footage to 3,400 square feet, but parking -- you're using up more space. How many parking spaces in the drive-through to go around the back, how are you going to have that for parking for more volume going in the store? How many parking spots will you have?

MR. LAPINE: We have twelve at the

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GASLAND PETROLEUM

79

pump, we have seven at the front of the building and we have six additional here at the corner here. So we have a total of twenty-five parking spaces total.

MR. WARD: You're including parking the cars at the pumps?

MR. LAPINE: Correct.

MR. WARD: The drive-through -- are you establishing like a drive-through lane?

MR. LAPINE: Yes. This is one of the comments we received. We're striping so we have a lane dedicated strictly to drive-through and then a lane dedicated to the bypass of any delivery vehicles, a box truck or something of that nature.

MR. WARD: If you have a drive-through a lot of times you're better with a light or a sign establishing drive-through because a lot of people don't look down if there's snow on the ground or whatever. I would recommend like a sign up to follow the direction for the flow.

UNIDENTIFIED SPEAKER: We have them at our other sites.

MR. LAPINE: We had the striping out on

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the lane but I guess we can --

MR. WARD: I'm saying if they are going in in a snowstorm and buying coffee, you know --

MR. LAPINE: Okay.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No comments.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: You commented on the LED light. The ZBA turned you down as far as saying that wasn't in compliance with the Town code; right?

MR. LAPINE: Correct. The film that was used for the diffusion wasn't in compliance with the Town Code is what I understand from the attorney.

MR. MENNERICH: What are you pursuing there with the Town?

MR. LAPINE: Unfortunately the attorney could not be present this evening, and I know he's just in discussions with the town attorney on this.

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MR. MENNERICH: Thanks.

MR. LAPINE: They have addressed three of the four violations.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No additional comment.

CHAIRMAN EWASUTYN: So you will revise your plans and resubmit. You'll get copies of the plans to Bryant Cocks so he can circulate to the Orange County Planning Department and also to the DOT.

MR. LAPINE: With regard to that, there are two comments that have continued to come up. One is we've had DOT approval and we have the City of Newburgh approval for the sewer connection.

CHAIRMAN EWASUTYN: Great.

MR. LAPINE: I was under the impression because they said they were cc'd to the Town but I don't think you received them because everybody brought up the same comment. I brought two additional copies of those.

CHAIRMAN EWASUTYN: If you'll get plans to Bryant Cocks so he can circulate to the Orange County Planning Department.

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GASLAND PETROLEUM

MR. LAPINE: Certainly.

MR. HINES: Is this a candidate for a public hearing or not?

CHAIRMAN EWASUTYN: I'll move for a motion from the Board, it's discretionary, whether we want a public hearing or not.

MR. GALLI: I would say yes.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I don't know if I know enough to make a comment on that.

CHAIRMAN EWASUTYN: With site plans it's discretionary or optional whether the Planning Board wants to have a public hearing or not. With subdivisions it's required by State law.

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No.

CHAIRMAN EWASUTYN: Okay. Myself no.

MR. LAPINE: Thank you.

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

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

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

DATED: April 27, 2009

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

----- X
In the Matter of

GOMEZ MILL HOUSE
(2009-01)

Mill House Road, east of Route 9W
Section 8; Block 1; Lot 28
AR & AR/O Zones

----- X

SITE PLAN

Date: April 16, 2009
Time: 8:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: PETER KARIS

----- X

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

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GOMEZ MILL HOUSE

MS. HAINES: The last project on our agenda tonight is the Gomez Mill House. It is a site plan located on Mill House Road east of Route 9W. It's located in an AR Zone and being represented by Peter Karis.

MR. KARIS: Good evening, Mr. Chairman, Members of the Board. My name is Peter Karis, I'm a landscape architect from Hudson & Pacific Designs in Saugerties, New York. I'm here tonight with Jennifer Van Tuyl who is the project attorney from Cuddy & Fader, and of course Dr. Ruth Abrahams who is the executive director of the Gomez Mill House.

A brief history for the new Board Members if the Board doesn't mind. The Gomez Mill House is a national historic site. It is the oldest standing Jewish dwelling in North America. It dates back to 1714. It's located on Route 9W just south of the Ulster/Orange County line along Mill House Road. Mill House Road goes from 9W to Old Post Road in the Town of Marlborough. Currently the Gomez Mill House sits on about a ten-acre parcel that's bisected by a stream named Jew's Creek. In 2001 the Gomez

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GOMEZ MILL HOUSE

Foundation, with State Environmental Protection Fund monies, was able to purchase an adjoining 26.6 acre parcel which we call the Woodward parcel, and the purchase of that property was threefold. First and foremost was to protect the historic corridor and the open space surrounding the Gomez Mill House from development sprawl. Secondly, it was to provide a safe parking area and safe access for visitors, especially school children who visit the facility, from a new parking area to the historic core of the ADA compliant walking trail.

Gomez Mill House is open from mid April to November from about 10 in the morning until 4 in the afternoon. We receive about on average twenty cars a day coming in and out of this facility. We do occasionally entertain scheduling school buses with school children via a program with the Newburgh City School District, and also groups coming on commercial buses. Currently buses unload -- load and unload along the very wide shoulder on 9W and pedestrians are asked to walk down Mill House Road to the site. People who drive cars come in to Mill House Road

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and park at the rear of the house.

Currently the existing culvert over Jew's Creek is closed because it's not safe to handle vehicular traffic. That happened about 2004 I believe.

This site operates as a museum and a historic educational facility. We submitted a use variance two submissions ago, or about a month-and-a-half ago, outlining the use of the property. I believe that the Board accepted that.

Essentially our site plan brings the site into ADA compliance and it provides safe access for people using the site. We tried to do this in an environmentally sensitive and sustainable way. The new parking area is proposed off of Mill House Road via a new driveway with a large turnaround in a location for buses to load and unload -- school buses to load and unload and park in a dedicated area, and we'll provide thirty-two parking spaces for visitors to the site.

We also have a location for a seasonal restroom facility as well as an ADA compliant

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access trail coming down the hill to Mill House Road so that pedestrians can visit the site. I don't know if everybody has been here. When you go to the site you are truly in the eighteenth century. It sits down in a hole. All you can really hear is the traffic from 9W. If that was absent you would be in 1750. It's really quite an amazing site and a great resource for the Town.

So we've been through a few revisions addressing Board and consultant comments. Our latest revisions yielded a few minor changes that I'd like to point out. We did respond to the Board and their consultants' comments in writing. We submitted a memorandum with our last submission.

Essentially the major changes to the site plan are we submitted a number of documents going through the SEQRA process to support our proposed action. First is the habitat and assessment report performed by Hudsonia. Hudsonia is the predominant habitat assessor for threatened and endangered species. It's the predominant organization in the Hudson Valley. I

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don't know -- they're very well known. They essentially write the books for endangered and threatened species. They did the habitat assessment for specifically the Indiana Bat, the Bog Turtle, the North Cricket Frog and what's called endangered or threatened plant species North Wild Come Free.

We did a site analysis in March, early March of this year, and essentially their conclusion was that because the majority of the woodland surrounding Jew's Creek is going to be undisturbed by the proposed action, that we are not going to impact endangered and threatened species. We submitted that report to the Board.

Secondly, we submitted a stormwater pollution prevention plan in compliance with the DEC regulations for the site. This gets into the sustainability and environmental sensitivity.

We're going to be utilizing a combination of bio-retention areas and dry and wet swales to handle the stormwater runoff for the project.

Based on our soil testing, if the Board recalls, the bio-retention area was to be located between the parking areas and then discharged down

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through a swale ultimately to Jew's Creek. Our soil testing uncovered some rock in this area which didn't lend itself to a bio-retention area. We were able to regrade the site, not change the layout at all, and move the bio-retention around to the large turnaround. With our previous site plan you would come in and the center island was raised and planted. This island between the parking areas was low and that's where the water would drain to. We would essentially flip that. We're going to berm an area between the parking areas and the crested area in the turnaround and plant it in a very beautiful way. So really we want to showcase the wall.

We have a dry swale for the driveway and a wet swale on Mill House Road to handle the additional runoff from the ADA trail.

Also with regard to the site plan we have some minor site improvements in and around the historic house with a new ADA walkway and some pervious paver parking areas for handicap parking spaces as well as for staff. Basically our stormwater pollution prevention plan is in compliance with DEC regulations.

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The third report that we submitted was a traffic report prepared by John Collins Engineers, specifically Dr. Phil Grealy. We did a couple things with the traffic report. We performed a capacity analysis for the intersection of Mill House Road and Old Post Road where John Collins Engineers went out and did traffic counts in February of this year, added on our twenty average cars a day, basically took a conservative approach to analyzing the traffic. Instead of spreading the twenty cars over the course of a day, they analyzed it as if those twenty cars came within the peak hour, all twenty cars. Currently the intersection of Mill House Road and Old Post Road functions at a level of service A. There's not a lot of traffic that happens on those roads. School buses also already travel those local roads. After this analysis was done this intersection will continue to serve the level of service A.

We also took a look at sight distance at the intersection. It was found to be compliant with the design speed of the road, as well as the intersection of our driveway and Mill

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House Road where it was noted a little bit of vegetation needed to be cleared along the edge to maintain adequate sight distance which would have to be taken care of if and when those roads open in the future.

It was also recommended that we provide some cautionary signage on the western part of Mill House Road to caution people as they come down that steep part of the road with the blind turn that there are people that are going to be crossing. There's a speed limit cautionary sign, a pedestrian cautionary sign, and a driveway intersection cautionary sign that will be installed along Mill House Road. Essentially the conclusion of the traffic report was that we're not going to have any impact on the level of service on the local roads. Our visitors will be diverted. Instead of coming down from 9W they'll be forced to come in Old Post Road to access this new parking area.

The fourth thing we submitted is the landscape bond estimate for the required landscaping, which is essentially landscaping within the parking area, buffer landscaping and

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landscaping associated with the stormwater management plan. So we provided that. It's about \$38,000 and change.

One thing that we would like to mention is there was discussion the last time we were here about double striping versus single striping and whether or not the Planning Board had the authority to waive that. We understand that that -- the Planning Board does not have the authority to waive that requirement, so we'll withdraw that request and we will be showing the double parking striping on the final site plan.

Also, the highway superintendent weighed in with a few comments revolving around the proposed improved shoulder from the ADA trail connection on Mill House Road to the existing culvert. We widened that from three feet to four feet. It will require a little bit of fill but we believe there's plenty of area to do that without the removal of trees.

We're also going to provide -- while Mill House Road is closed we're going to provide seasonal free-standing wood railings as fault protection as pedestrians cross the culvert.

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There's nothing there that prevents anything from happening off the side. We're going to install wood railings that we'll be able to take down when we're closed for the season and store on site. That will remain in effect until a point where Mill House Road is reopened.

I believe that's it for site plan revisions and the history.

MS. VAN TUYL: If I could just mention a couple of items, mainly for the benefit of the new Members. In our plan we are only proposing that school buses would access the new parking area. Any commercial buses will continue to be required to park on Route 9W. So there's going to be no commercial buses proposed to be traveling over local roads.

I thought it should be noted that the original use variance was granted back in 1985 but it was within the past two months that the Zoning Board of Appeals reviewed the matter and made a ruling that this proposed enhancement did not require any modification, the previous use variance. The only reason a use variance was required, even back in 1985, is that the Newburgh

1 code just doesn't make provision for a museum.
2 Even though a historic museum would naturally
3 have to take place wherever the historic place
4 is, that's why it required a use variance.
5

6 Also, to address concerns about the
7 nature of the use, the applicant has submitted a
8 detailed use narrative, and we have agreed that
9 that use narrative will appropriately delimit the
10 activities on the site.

11 I think the only other thing that I
12 would mention is that this Board has, from the
13 outset, treated this matter as a Type I action,
14 because it is a national historic site, and has
15 conducted a coordinated review with all other
16 agencies and received comments from everyone.
17 One of the key aspects of the referral that this
18 Board does to the County Planning Department is
19 for a specific purpose that's actually set forth
20 in the General Municipal Law, and that is for the
21 County Planning Department to bring to the
22 attention of the Board any pertinent
23 intercommunity planning or zoning considerations,
24 particularly as they relate to traffic impacts on
25 adjoining communities and as they affect

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community character. As I think the Board will recall, at the last hearing Megan Tannerman from the County Planning Department was actually present to say that she -- that the County Planning Department had not only stated that there were no intermunicipal concerns of note that she felt necessary to bring forth before the Board, but she actually complimented Hudson & Pacific Designs on the job that they had done and a sustainable design for the site.

So I think the Board has taken a very hard look at all the relevant issues of environmental concern, and we're certainly willing to answer any questions that the Board has tonight. We would hope that the Board would see fit on the very complete record that it has to move forward for a SEQRA determination and consideration of project approval.

CHAIRMAN EWASUTYN: Jennifer, why don't you remain standing for a second and you can speak to the new Members as far as the response from SHPPPO because we did coordinate with them and we do have a letter from -- two letters from the Town of Marlborough where they reference when

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they were looking to upgrade their bridge that SHPPO had this area determined to be of historic value. So I'd like you to respond to that for the record.

MS. VAN TUYL: Sure. This is a historic site by virtue of the Gomez Mill House, and so it is naturally true that any proposed improvement in this area, because of its proximity to a national register historic site, becomes a Type I action. Now that doesn't per se mean that an EIS has to be done, but what it does mean because it's a Type I action is that it should be under a higher level of scrutiny. So a coordinated review is required. When the Town of Marlborough planned its improvement of its culvert, certainly because it was a national register site that was a Type I action. Again, there's a concern by SHPPO, very much so, that this road not become over widened to encourage speed, that the nature of the culvert bridges be compatible with the surrounding historic properties, et cetera. So there is great concern by SHPPO with the development in this entire area, and because of that the Gomez House has

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CHAIRMAN EWASUTYN: So for the second time tonight you hear the terminology of hard look. Mike Donnelly had explained that to us early on after you determine that you had a hard look. Mike will discuss that as we summarize the action.

At this point I'll turn to our Board Members for their comments. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: My one concern is the Town of Marlborough where they said that the bridge they rebuilt, that they couldn't build it to modern standards and that there was a concern on their part about all this heavy traffic as a result of this project. That's not the impression I have of what the project is, but we do have this letter from the Town of Marlborough stating that they've got a concern about the impact of the heavy traffic on this bridge that they rebuilt.

MS. VAN TUYL: I'd be happy to respond to that. I think that this Planning Board can be very assured that there is not heavy traffic

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because of the use narrative that has been provided, because the use variance that was granted in 1985 and re-reviewed only several short months ago particularly says that uses cannot expand without coming back to not only this Board but if the use is ever expanded it would have to go back before the Zoning Board of Appeals. The use narrative that you have before you shows that there is no proposal to expand the use, and I think one thing that it may be possible that the commenter -- the supervisor from the Town of Marlborough might not have understood is that there's absolutely no proposal to change the traffic for commercial buses, tour buses. Again, this doesn't happen all the time. The average visitation is twenty people a day. When occasional I Love New York buses come, groups come wanting to see the historic site, they'll continue to have to park on Route 9W and people will walk. There's really not a centillion of evidence in the record of increased use, heavy truck traffic, deliveries, anything like that. This is not a facility that will have truck traffic of any kind, and so I think --

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MR. MENNERICH: The traffic that will be coming to this site to that parking lot will be coming from both the north and the south?

MS. VAN TUYL: Absolutely. Coming from the north and the south. These are routes that could have been used over the entire time, so --

DR. ABRAHAMS: I would like to make one small comment.

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

DR. ABRAHAMS: Dr. Ruth Abrahams, Executive Director of the Gomez Mill House Foundation.

Actually, when the culvert at the top of the east side of Mill House Road stopped, Old Post Road became a traffic viaduct if you will for a lot of the traffic, and the amount of traffic that came through from Old Post Road to 9W increased so significantly that not only did it annually have several incidents of damage to our property, our stonewalls were constantly being knocked down. In fact, we had one knocked down about three weeks ago, again because someone came in, not believing that the road was closed,

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and they turned around and knocked down our wall there. We had to have that rebuilt. There was significant traffic activity that for the last two years, four years or five years that people wanted to do a shortcut to the extent it wore away that little bridge that we have there. That's why that was stopped.

In terms of the number of traffic, it's not from us particularly. We have not been adding very much traffic. We get, as we said, about twenty cars a day sporadically throughout the six hours that we're open daily with the exception of the kids who come starting next week through June and then a few of the tour buses which do park up on 9W and release the passengers up there.

MS. VAN TUYL: Again, I think the record really confirms the level of usage is unchanged.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have nothing further. I just want to comment that I think you're doing a fantastic job. It's very nice.

MS. VAN TUYL: Thank you.

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GOMEZ MILL HOUSE

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CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I enjoyed the presentation, this is the first I've heard of it. I have no comment.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I say the same thing, and I appreciate the historic part in keeping it that way for the preservation. Thank you.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant.

MR. HINES: Just a couple of clean-up items that can be handled with a resubmission. I am interested, I know that you had conversations with the town supervisor regarding the -- there was talk last time about a sidewalk on the bridge, or continuation. Just if you could fill the Board in on where that went.

DR. ABRAHAMS: Sure. It was that because of the --

MS. VAN TUYL: Do you want me --

DR. ABRAHAMS: Yes.

MS. VAN TUYL: I think we addressed this pretty clearly in the submission that we made. Gomez Foundation or Mill House isn't going

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2 anywhere. It's not like we're going to move out
3 tomorrow or go to some other town. We're here
4 and we are pledged to fully cooperate with the
5 Town. Ruth spoke to the supervisor to pledge the
6 continued cooperation of Gomez Mill House. In
7 fact, Dr. Abrahams actually suggested that Gomez
8 and the Town could work together, that Gomez
9 could use its grant writing skills and possibly
10 obtain what the Town grants for public, private
11 partnerships, et cetera. What we do believe is
12 that we can't, at this time, specify what the
13 design of any particular sidewalk, et cetera
14 would be because that kind of jumps the gun SEQRA
15 wise onto something that's a separate Town
16 action. So we thought it was appropriate to
17 leave it with the pledge of cooperation that we
18 have here knowing that we want access that is
19 compatible with the historic site, and it's
20 really because of that interest that we have. We
21 don't want, you know, mall-like sidewalks being
22 used for access. We want something that's the
23 right scale. Because of that we're willing to,
24 you know, pledge our grant people to work with
25 the Town on that.

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So again, I don't want to speak for the supervisor but I think that we made it very clear that we're going to be here for the long term to work with the Town in resolving these issues when the Town makes its determination to proceed with its repairs along the road.

MR. HINES: That's all we have. It was just to put on the record.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: Most of my comments were actually addressed in Peter's presentation.

One thing I was concerned about was the temporary restroom facility. I just feel like everything else is going to look so nice up there and then just this white box is going to be sitting there.

MR. KARIS: We actually have a decorative fence going around three sides of this facility. The idea is that this temporary restroom facility is going to be taken off site during the off season. It needs to be served during the season. We wanted to leave the front open. We do have a decorative fence around three

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sides to screen that from the parking area, and there is a detail on the site plan.

MR. COCKS: Thank you.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: All my comments were addressed. The one thing I want to ask you, Peter, is if you want to take out the four evergreen trees that both traffic consultants feel might be a problem for future sight lines or just leave them on the plan and have them pruned? There's four right in a row.

MR. KARIS: Through here. We'll take care of that as part of our site plan now.

MS. ARENT: Did you want to resubmit a landscape cost estimate with those --

MR. KARIS: Sure.

MS. ARENT: Okay. That's it.

CHAIRMAN EWASUTYN: Then the motion we have before us this evening is to make a SEQRA determination which we didn't have last time. The stormwater management plan, Pat Hines had approved that.

I would move for a motion to grant a negative declaration for the site plan for the

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GOMEZ MILL HOUSE

107

Gomez Mill House.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by
Joe Profaci.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a second by
Frank Galli. Discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. Thank you.
Pat, you had mentioned earlier a
resubmittal. What is your suggestion to the
Board as far as taking action on the site plan
tonight subject to --

MR. HINES: I have no problem with the
conditional approval subject to a sign off by the
consultants on their technical comments.

CHAIRMAN EWASUTYN: Mike Donnelly,

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would you be prepared to go through with us a resolution for site plan approval?

MR. DONNELLY: Sure. The first condition will be reference to the existing use variance issued by the Zoning Board in 1985, and this approval that you will grant this evening continues to carry the conditions of that granted use variance, some of which relate to use of the roadway at certain periods of time.

Secondly, we'll need sign-off letter from Pat Hines on the matters he has mentioned and which appear in his memo of April 9, 2009.

The applicant does propose to make certain improvements, striping to the intersection primarily of -- what was the intersection again?

MR. WERSTED: Mill House Road and Old Post Road.

MR. DONNELLY: Thank you. The issue becomes whether or not that's an approval that is required for the project to go forward. As I understand from the applicant's traffic consultant, they are not needed. I think we've heard that this will operate at level of service

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A with or without those improvements but for added convenience. Because the applicant has represented that they'll pursue them, I think we should carry something about those in the resolution. I suggest the following language as condition number three: The applicant shall apply to the Town of Marlborough highway superintendent in order to obtain approval to make the striping improvements as set forth in the applicant's traffic study, and, if that approval is obtained, shall make the proposed improvements prior to issuance of a certificate of occupancy or certificate of compliance for this project. If the Town of Marlboro highway superintendent declines to approve the proposed improvements, Gomez Mill House shall file a copy of such disapproval or other documentation thereof for the Town of Newburgh building inspector prior to the issuance of such certificate of occupancy or certificate of compliance. The purpose of the condition being to make sure the applicant actually does it and we know whether or not the improvements will or will not be made, and we'll link that to the time

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of the certificate of compliance.

Next, our own highway superintendent and this requirement that certain things be done in the near future and then a hope of cooperation in the more distant future, so I propose condition number four to read as follows: The Town of Newburgh highway superintendent has noted a need for appropriate pedestrian access, both leading to and across the bridge over Jew's Creek. At the present time the applicant is proposing use of temporary free-standing railings, bridge and shoulder widening for such purposes which shall be installed at such time as the highway superintendent directs and at the highway superintendent's direction. The Newburgh highway superintendent has also requested that the applicant commit to providing the incremental cost of such access at the time the culvert is replaced. The applicant, by memo dated April 6, 2009, has agreed to join with the Town in future cooperative planning in order to ensure consistency with the existing character of the Mill House site, which cooperation shall include planting of its pedestrian connection with any

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new bridge across Jew's Creek, pursuance of grants for historically appropriate work, and, if requested, the joint application with the Town for such funding.

The next condition is your standard condition limiting the uses to be conducted on site to those that are set forth in the project narrative that you had before you.

We will then need a landscape security and inspection fee, and I think Karen has already reported on the amount of that.

MS. ARENT: We're going to revise that.

MR. DONNELLY: Whatever the revised amount is, that will go to the Town Board. I think we need a stormwater security inspection fee as well. And then the standard condition regarding the payment of fees before the plans are signed.

CHAIRMAN EWASUTYN: Having heard the conditions of approval for the Gomez Site Plan, I'll move for that motion.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by

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GOMEZ MILL HOUSE

112

Ken Mennerich and a second by Joe Profaci. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. KARIS: Great.

CHAIRMAN EWASUTYN: Thank you.

MS. VAN TUYL: We thank the Board very much for its consideration and hard work on this application. As we said at the outset, Gomez has money actually approved and waiting in Albany for your SEQRA review and your completion, so now she's going to run to Albany.

DR. ABRAHAMS: Thank you all very much.

CHAIRMAN EWASUTYN: Let's hope it's still there.

DR. ABRAHAMS: We hope you visit the

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GOMEZ MILL HOUSE

113

site. We open officially this Sunday. Join us throughout the season when you can.

MS. VAN TUYL: Thanks to the Town consultants, too, who worked promptly.

(Time noted: 8:53 p.m.)

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

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

DATED: April 27, 2009

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

----- X
In the Matter of

GREINER SUBDIVISION
(2002-33)

Request for an Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: April 16, 2009
Time: 8:53 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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GREINER SUBDIVISION

MS. HAINES: The first item of Board Business we have today is the Greiner Subdivision. We received a letter from Greg Shaw dated April 3, 2009 requesting extension of his preliminary approval. The approval was originally granted on August 17, 2006. His current approval expires May 5, 2009. With this extension the approval will be valid through November 1, `09.

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

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci, 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.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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GREINER SUBDIVISION

116

CHAIRMAN EWASUTYN: Myself yes. So
carried.

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

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

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

DATED: April 27, 2009

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

----- X
In the Matter of

WILDFLOWER VISTA
(2004-42)

Request for an Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: April 16, 2009
Time: 8:55 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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WILDFLOWER VISTA

118

MS. HAINES: The next one we have is Wildflower Vista. We received a letter from Greg Shaw dated April 3, 2009 requesting an extension of that preliminary approval. That approval was originally granted on August 17, 2006. The current approval expires May 5, 2009. With the extension the approval will be valid through November 1, 2009.

CHAIRMAN EWASUTYN: Again a motion to approve that extension?

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So

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WILDFLOWER VISTA

119

carried.

(Time noted: 8:56 p.m.)

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

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

DATED: April 27, 2009

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

----- X

In the Matter of

STEWART SENIOR HOUSING
(1999-07)

Additional Sewage Flow for Conversion of Lounge
into Caretaker's Apartment

----- X

BOARD BUSINESS

Date: April 16, 2009
Time: 8:56 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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STEWART SENIOR HOUSING

MS. HAINES: The last thing we have is regarding Stewart Senior Housing. We received an e-mail from Jerry Canfield dated April 17, 2009. He stated that Jim Osborne, the town engineer, stated he did not feel there would be an issue with the additional sewage daily flow resulting from converting the third-floor lounge into a caretaker's apartment.

CHAIRMAN EWASUTYN: Okay. Jim Osborne's letter basically said that they're conservative figures as far as the sewer usage and sewer flow from all sites, and that by putting in this caretaker's unit, that the amount of waste that would be generated was well within the conservative figures.

So I think the motion before us this evening is to approve, Mike, the amended site plan for Stewart Senior Housing to allow for a caretaker's unit on the second floor.

MR. DONNELLY: To convert one existing senior unit to a caretaker's unit.

MR. HINES: It's a lounge area.

MR. DONNELLY: I'm sorry. A lounge area to the caretaker's unit. I do note your

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STEWART SENIOR HOUSING

original resolution did not mention specifically that. I don't know what level of formality. Perhaps the minutes being sent to the building department might be enough after your vote. You should vote on a resolution to authorize the conversion of the lounge to a caretaker's residence.

CHAIRMAN EWASUTYN: I'll move for a motion to move to convert the existing lounge area, I believe it's on the second floor.

MR. COCKS: Third.

MS. HAINES: Third floor.

CHAIRMAN EWASUTYN: On the third floor to provide now for a caretaker's premises in its place.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank -- 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.

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STEWART SENIOR HOUSING

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

(Time noted: 9:00 p.m.)

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

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

DATED: April 27, 2009

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

----- X

In the Matter of

DISCUSSION BY MICHAEL DONNELLY, ESQ.

Extensions of Approval

----- X

BOARD BUSINESS

Date: April 16, 2009
Time: 9:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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BOARD BUSINESS

CHAIRMAN EWASUTYN: Before we
leave we'll take one brief moment for Mike
Donnelly to bring the new Members along as
far as preliminary approvals and if there is
a limit. In today's market, especially with
residential projects, developers aren't
looking to move forward with final approvals
on residential projects because there isn't a
market for lots, and if they were approved
and filed then there would be taxes that
would have to be paid for individual lots.

Can you --

MR. DONNELLY: Sure. The rules are
somewhat different for subdivisions and for site
plans. Let's start with subdivisions. Your own
code and the State law are the same, a final
subdivision approval is good for a period of six
months. It may be extended for two additional
ninety-day periods with a total, therefore,
length of the final subdivision approval being no
more than 360 days. You may never extend it
beyond that. Within that maximum of 360 days the
applicant must satisfy all of the conditions of
final subdivision approval which would authorize

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the signing of the map, and then there's another time period of sixty-two days from when the Chairman signs the map until it gets filed in the office of the Orange County Clerk. So the applicant is faced with those time periods on a final subdivision approval.

A preliminary subdivision approval under State law and our own code is sort of open ended and says that in the event that the applicant has not returned with final approval within six months, the Planning Board may not extend the approval further.

So generally what I think we have been doing of late is to require applicants to tell us what they propose to do, and given the climate to allow them to have further time period simply because of market conditions. Normally the idea of the continuing of extension is how long it might take to get other agency approvals. In other words, the two-step process is to give your approval at the preliminary stage so that the applicant can go to the Orange County Health Department, the DOT, DEC, whoever else is involved. Often that timeframe can be measured

1 not in months but years. And then when they
2 obtain those other approvals, to return. Some
3 applicants are saying I probably could complete
4 all those other approvals but I'm not yet ready
5 for final because that would mean filing the map,
6 paying the increased taxes. I think the Board
7 has shown some leniency on both the extension of
8 preliminary approvals and also the reasons for
9 them.
10

11 On the site plan side your ordinance
12 says, as to final approvals, they're good for a
13 period of two years and may be extended for one
14 additional one-year period. So they have up to a
15 three-year time period, and that because there's
16 no map filed means that the applicant must
17 actually start construction within that time
18 period or its approval lapses.

19 Again with preliminary approvals, I
20 believe we've also been using six months as the
21 measure of the duration with a subject to renewal
22 if the applicant explains a reason or rationale
23 for doing that. Although the rules are slightly
24 different, the idea is the same.

25 By the way, with site plans the Board

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BOARD BUSINESS

has not always given preliminary approvals, often only final approval is given. Your ordinance is somewhat unusual. Site plans under most ordinances are final only, but your code I think intelligently allows the granting of preliminary approvals where a project is somewhat complicated and where the final plan is likely to be influenced by what another agency will do. So you bring it to the point that makes sense, you grant preliminary approval so the applicant can go talk to other agencies and then return with whatever review remains before final.

Normally in subdivisions there's very little review left, but in preliminary you can kind of identify what further review is required. I think we've even seen several applicants who had obtained final subdivision approval who, when they realized that they didn't really want to file the map but didn't want to lose the work time and effort they put in, had surrendered their final approvals and asked to return to the preliminary stage so that they can then ask for final approval again later in the future. They wouldn't be protected from changes in the

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BOARD BUSINESS

ordinance because, as we talked about earlier, preliminary approvals aren't protected, only filed maps are protected. I think it provides benefit to them. Also when they file the map they have to bond roadways and any other public improvements. At this time a lot of developers don't want to have to do that.

We've seen a little bit of a shift to the dispatch with which applicants move to final approval, and in some cases even request to return to preliminary status.

CHAIRMAN EWASUTYN: I think you'll learn as we go through the process that it's market conditions today that are just causing a lot of rethinking and changes because no one knows what the future holds and they're all hoping to move forward and be successful and it's difficult.

Any questions from anybody before I move for a motion to close the meeting?

MR. GALLI: I just have one question on the letter we got from the Bonura property. When they originally came before us, was that going to be the drug store and a restaurant that they were

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BOARD BUSINESS

130

going to --

CHAIRMAN EWASUTYN: I thought it was going to be a retail use.

MR. GALLI: Oh, retail use. Now it's going to be all restaurant again?

CHAIRMAN EWASUTYN: I have no idea. Do you know?

MR. GALLI: I just heard it was going to be all restaurant. Did that come back before the Planning Board?

MR. PROFACI: The Bonura property?

CHAIRMAN EWASUTYN: The only thing I remember about the Bonura property specifically was what they showed on the site plan was what they said they were showing.

MR. HINES: I thought there was a restaurant and a retail addition.

MR. GALLI: I thought it was too. One side was restaurant and one side was going to be something else. I thought it was a Walgreen's.

CHAIRMAN EWASUTYN: It hasn't been back and it's been quite some time. From what I understood at the time they were working.

MR. MENNERICH: For the benefit of Tom

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BOARD BUSINESS

and John, there's courses on land use and planning that are given in the spring and the fall. The spring agenda is out now. The fee John has in the budget to pay for that. If you want to attend it, the Town pays for it. Dina is going to make copies of it and put it in your box.

MR. FOGARTY: Good. Thanks.

MR. WARD: Is that down in Goshen?

MR. MENNERICH: It's BOCES in Goshen.

MR. DONNELLY: Is it at BOCES this year or the County Emergency Center?

MR. MENNERICH: It's adjacent to -- adjacent to the Orange County Jail. Orange County Emergency Service Center.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of the 16th of April.

MR. GALLI: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Joe Profaci. Roll call vote.

MR. GALLI: Aye.

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BOARD BUSINESS

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

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

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

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

DATED: April 27, 2009