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

----- X
In the Matter of

GOLDEN VISTA
(1999-33)

Meadow Hill Road
Section 60; Block 1; Lot 9
R-3 Zone

----- X

AMENDED SITE PLAN

Date: July 21, 2011
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 PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: KIRK ROTHER &
STANLEY SCHUTZMAN

----- X

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

MICHELLE L. CONERO - (845)895-3018

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GOLDEN VISTA

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MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of July 21, 2011.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here

MR. FOGARTY: Here.

MR. WARD: Present.

MR. PROFACI: The Planning Board has professional experts that provide reviews and input on the business before us, including SEQRA determinations as well as code and planning details. I ask them to introduce themselves.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Code

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Compliance Supervisor.

MR. EDSALL: Mark Edsall, McGoey,
Hauser & Edsall Engineers.

MR. COCKS: Bryant Cocks, Planning
Consultant.

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

MR. PROFACI: Thank you. At this time
I'll turn the meeting over to John Ward.

MR. WARD: Please stand so we can say
the Pledge.

(Pledge of Allegiance.)

MR. WARD: If you would please turn
your cell phones off or on vibrate. Thank you.

MR. PROFACI: The first item on this
evening's agenda is Golden Vista, Meadow Hill
Road, Section 60; Block 1; Lot 9, located in the
R-3 Zone. It's an amended site plan and being
represented by Kirk Rother.

MR. ROTHER: Good evening, everybody.
I'll let Mr. Schutzman take the lead this
evening.

MR. PROFACI: Stanley Schutzman.

MR. SCHUTZMAN: Stanley Schutzman, I'm

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a local attorney. With me today is Paul Going who is our traffic consultant.

To just go through a little of the history on this, the Board may recall that the applicant had received conditional final approval with respect to site plan approval for 188 senior units, and late last year filed an amended site plan application, after obtaining a resolution of the Town Board, seeking to amend the site plan for a total of 161 units of which 18 were going to be designated workforce under the Town Code affordable housing provisions. We had a public hearing several months ago with respect to this matter, at which time the Board closed the public hearing. The Board's comments after the hearing seemed to center around the request for some additional information, mostly concerning traffic issues, including a definition of whether the traffic study conducted in November was in fact on a school day, which we subsequently verified and confirmed. Since that time an additional traffic study was conducted, and those results were presented to the Board and its consultants.

Subject to the Board's comments

1
2 tonight, I believe that the Board has all the
3 information and follow up that it asked for so as
4 to give consideration tonight for a resolution of
5 conditional final approval.

6 I should also note that in the interim
7 we understand that the Town Board of the Town of
8 Newburgh has initiated a proposal to amend the
9 Zoning Code which would treat similarly the
10 provisions of the Affordable Housing Code,
11 vis-a-vis senior housing. If that legislation is
12 adopted, I just want to note to everybody that it
13 would be the applicant's consideration to, at
14 some point, come back to the Board, in all
15 likelihood, to discuss the issue of transferring
16 the units from affordable workforce housing into
17 senior units instead. The balance of the units
18 are all going to be market-rate housing.

19 If the Board has any questions of me,
20 I'm here. Otherwise we have our traffic
21 consultant and engineer available.

22 CHAIRMAN EWASUTYN: Mr. Going, would
23 you speak to us on the updated traffic?

24 MR. GOING: Sure. Following the last
25 public -- well, the last hearing we were at,

1
2 which was a public hearing, we did some
3 additional traffic studies. We put out ATRs,
4 which are automatic traffic recorders, to collect
5 traffic data, specifically volume and speed, at
6 three locations; one location to the east of the
7 site near the Thruway, one location to the west
8 of the site between Brighton Drive and --

9 MR. GALLI: Pacer?

10 MR. FOGARTY: Delaware.

11 MR. GOING: -- Brighton and Delaware,
12 and between Sycamore and Pacer, which is the
13 length of the road where the site itself is.

14 The volume data we collected was
15 basically in the same range of the volumes that
16 we collected in November. In November we
17 collected manually turning movement counts in
18 June, we collected the ATR counts. The volumes in
19 June were a little bit different from the volumes
20 in November but not significantly different.

21 In terms of speeds, the speed limit is
22 30 miles-an-hour. In the area to the west --
23 just to the west of the Thruway we found that the
24 speeds were generally elevated. The average
25 speed was 38 miles-an-hour eastbound and 36

1 miles-an-hour westbound. The eighty-fifth
2 percentile, which is typically called the
3 prevailing speed by traffic engineers, was 42
4 miles-an-hour eastbound and 41 miles-an-hour
5 westbound. Between Sycamore and Pacer, which
6 again is the section of the road where the site
7 is located, the average speed was 29
8 miles-an-hour, which is lower than the speed
9 limit, and the eighty-fifth percentile speed was
10 34 miles-an-hour in the eastbound direction and
11 36 miles-an-hour in the westbound direction.
12 Then further west, between Bainbridge and
13 Delaware, the average speed eastbound was 31
14 miles-an-hour, the average speed westbound was 34
15 miles-an-hour. The eighty-fifth percentile
16 speeds at that location were 37 miles-an-hour
17 eastbound and 40 miles-an-hour westbound.
18 Basically we found that looking at the easterly
19 -- to the east of the site and to the west of the
20 site, there are higher speeds actually at those
21 parts of the road. The part of the road where the
22 site is is actually where the speeds tend to be
23 lowest. That seems to be consistent with the
24 placement of the driveway there.
25

1
2 Aside from the volumes and speeds, we
3 also collected additional manual count data at
4 Paddock in order to analyze that location, and we
5 also analyzed Pacer. We had previously collected
6 manual count data, which is turning movements, at
7 Pacer in November last year. The analysis at
8 Pacer and the analysis at Paddock both showed the
9 proposed project would not have an impact on
10 traffic operations at those locations.

11 The last thing we did was we collected
12 accident information, and we mapped out the
13 accidents per location to figure out where
14 accidents are occurring. What we found was there
15 are a significant number of accidents occurring
16 on Meadow Hill Road in the vicinity of Route 300,
17 and more specifically at the driveway to the
18 Newburgh Mall and to the Stop & Shop shopping
19 center. That's really where most of the
20 accidents occurred. In the section of the road
21 where the site is there were only two accidents
22 that occurred. Both of those accidents involved
23 an eastbound driver -- not saying eastbound
24 driver but each accident involved an eastbound
25 driver going off the road as they came down the

1 hill and were following the curve to the right.
2 They went off the road on the left-hand side of
3 the road.
4

5 One of the things that we're proposing
6 to do is to add some signage on that approach
7 eastbound to that curve to give people better
8 warning of the curve ahead. The signs would
9 include a sign with an arrow to the right as well
10 as what they call chevron signs which are like
11 sergeant stripes that are rotated that you put on
12 the outside of the curves so someone, as they
13 approach the curve, can see those chevrons and
14 know that that curve is coming up and how close
15 it is.

16 That's a basic summary of what we
17 studied. If there are any questions --

18 CHAIRMAN EWASUTYN: Ken Wersted who
19 represents the Town of Newburgh in review of the
20 follow-up report that was done by Mr. Going's
21 office, which I believe is Atlantic Design.

22 MR. GOING: Atlantic Traffic Design
23 Engineers. Thank you.

24 CHAIRMAN EWASUTYN: Ken Wersted, would
25 you stand up when you speak for us, please?

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MR. WERSTED: We reviewed the supplemental traffic information and provided a summary of that.

Some of the points that I'd like to speak about include basically the traffic along the road and where it's kind of generated from. Of the segments that were collected, there's three traffic counters. As you look at the traffic volumes in any particular hour, you can see that the volumes steadily increase from the west end of Meadow Hill Road to the east end. So the traffic counter up at the top of the hill near Brighton Green and Delaware Road, that counted the least amount of traffic. The counter that was kind of in the middle between the school and between Sycamore Road had kind of an increased amount of traffic. Then the traffic counter that was over the overpass to the Thruway counted the most traffic of those three hours. It kind of makes sense because the way Meadow Hill Road collects traffic from all the neighborhoods, as you move from the west to the east you have more and more neighborhoods that feed into the road. So for each of those hours

1 the traffic counter furthest to the west counted
2 the least amount and the one furthest to the --
3 I'm sorry. The traffic counter furthest to the
4 west counted the least and the one furthest to
5 the east counted the most, basically because
6 there's a single bridge over the Thruway, those
7 neighborhoods come together, basically
8 concentrate all the traffic before it comes down
9 the hill towards Route 300. So that was evident
10 from compiling each of the three counters
11 together and comparing all the information.
12

13 The other thing we had looked at as
14 well is how that traffic was distributed
15 throughout the day. That was a concern from the
16 public, that going out there and doing traffic
17 counts only during certain time periods isn't
18 capturing the whole picture of how traffic
19 basically travels along the road. The applicant
20 had put out these traffic counters that collected
21 day and night for several weekdays including a
22 weekend, and basically shows how traffic volumes
23 trend throughout the day and overnight. As
24 expected, overnight traffic is pretty minimal out
25 there. There are some cars. When you get into

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the wee hours of the morning it's pretty quiet, then around 4:00 to 5:00 in the morning, that volume steadily increases as residents wake up, they start their commute to work. It generally peaks between 7:00 to 9:00 in the morning, and then it tapers off throughout the morning to about midmorning, and then it begins to increase again around lunchtime. Then after that you have the school starts influencing the amount of traffic on the road. As you get towards the school dismissal periods, 1:30, 2:00, 3:00, the traffic volumes continue to increase, then as the school is dismissed and all the students and teachers have begun to leave, it pretty much stays fairly steady or even drops off slightly before the late afternoon where you have all the residents of the adjacent neighborhoods coming home from their workplaces. The information basically steadily shows that there's a significant peak heading eastbound up towards Route 300 in the morning, and in the evening it's westbound, back from Route 300 up the hill and into the neighborhoods. So looking at that information for each of the counters that were

1 out there, the three of them, they showed that
2 similar pattern as you compare the traffic
3 volumes from each of the locations.
4

5 That was just some of the points to add
6 to Mr. Going's analysis.

7 CHAIRMAN EWASUTYN: Questions from
8 Board Members. Frank Galli?

9 MR. GALLI: No additional.

10 CHAIRMAN EWASUTYN: Ken Mennerich?

11 MR. MENNERICH: No additional.

12 CHAIRMAN EWASUTYN: Joe Profaci?

13 MR. PROFACI: No additional.

14 CHAIRMAN EWASUTYN: Tom Fogarty?

15 MR. FOGARTY: Ken, I have a question. I
16 don't know if it was in the Atlantic report or
17 maybe something that you put out. It's basically
18 saying this project is going to generate 84 cars
19 in the morning and 108 in the evening. Based on
20 the total number of cars using that road
21 throughout the course of the day, is that
22 considered a large increase, a minimal increase?
23 How would you answer that?

24 MR. WERSTED: I'd say the highest
25 concentration is going to be heading from the

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site towards Route 300. That is more major of an arterial. It obviously connects you to 84 and you can head east, west, many different points. So the site, most of the traffic is going to come out and it's going to take a left and head down the hill towards Route 300. The amount of volume or the amount of trips coming out of there is probably going to be around maybe five to ten percent, I don't have the exact numbers but I can certainly give that to you, of what -- of the amount of traffic that's already out there on the roads. So you have the neighborhoods generating traffic that is coming out onto Meadow Hill and traveling down towards Route 300. The project would basically generate another fifteen to twenty cars, twenty-five vehicles following along that same path.

To point out, as you travel down the road and you come up to the first kind of major intersection on Meadow Hill, which takes you into, I guess it would be Meadow Hill East or South, Paddock Place is a major entrance for that neighborhood. The traffic that heads up in that direction, in the afternoon there's about a

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hundred and twenty cars that come up and take the left to go into that neighborhood. In the morning it's reversed, there's about a hundred cars that come out and make the right turn to head down the hill. Meanwhile you have about two hundred and fifty or so vehicles heading up and down the hill. And then when you get into the other driveways or other roadways into that neighborhood, the volumes are quiet lower. So that entrance is kind of a major entrance for that neighborhood. As people come up from Route 300, it's the first one you come to, so they make that turn into the neighborhood and kind of meander, find their way through the neighborhood to their homes. You'd find, you know, probably not the same amount of traffic at the other residential roadways along the road, like Monarch and Delaware and those points further to the west. You would see a similar pattern in the sense that traffic in the morning would be coming down and heading east on Meadow Hill and in the afternoon it's heading west and making turns into the neighborhoods.

MR. FOGARTY: Thank you.

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CHAIRMAN EWASUTYN: John Ward?

MR. WARD: My question is in reference to the chevron signs. I was recommending a guardrail, too, because if somebody goes through they're going to hit the signs and keep knocking them down. It will be the Town's responsibility later of always putting them up. At the same time, a guardrail would help maintenance wise and protection of residents going through. If it's on an incline going down, you never know with the house right there, the residents.

My other question was there was a Town of Newburgh resident that sent you a letter. Can you answer that?

MR. GOING: Sure.

MR. WARD: Thank you.

MR. GOING: Just starting with the guide rail. In my opinion it's more potentially dangerous for a driver to hit a guide rail. It's not -- I don't know if you ever hit one but it's preferred not to put a guide rail when it's not protecting something that's more dangerous, which a sign is not. So I wouldn't advocate protecting the signs with a guide rail because that would be

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less safe.

MR. WARD: I'm more trying to protect the resident right there, not the sign. What I'm trying to say is protection for the resident for a car going down or whatever it is, if it's going to be addressed with the traffic it should be addressed as a guardrail to protect the residents. Okay?

MR. GOING: That's a different situation.

MR. WARD: That's what I'm saying.

MR. GOING: But in that same situation, the design would have to be looked at closely because a guide rail does deflect. So you just have to be sure the zone it deflects into wouldn't be where the people would be.

Regarding the letter, we did receive a letter dated July 6th, and it's a letter to Chairman Ewasutyn. In the letter the writer, Ralph Giddons, states that one of the automatic traffic recorders, ATRs, that we placed was damaged on the evening of Saturday, June 18th. That's true. We placed the recorders on Tuesday, the 14th, in the early morning hours, around 1

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a.m., 2 a.m. We picked up the ATRs the next week. We actually picked some of them up on different days. One of the machines which was collecting speed data only at the location near the Thruway, that machine stopped working at around -- between 9:45 and 10:00 p.m. on Saturday evening. So we did collect data for basically Tuesday through Saturday. We didn't collect as much data as we did at some of the other locations, but it's really not a significant difference. We did collect volume data at that location for the entire period.

MR. WARD: Thank you.

MR. GOING: You're welcome.

CHAIRMAN EWASUTYN: Comments from our consultants on the traffic information presented. Jerry Canfield?

MR. CANFIELD: I have nothing additional.

CHAIRMAN EWASUTYN: Mark Edsall?

MR. EDSALL: No comments.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: No comment.

CHAIRMAN EWASUTYN: At this point we'll

1
2 turn to Mark Edsall who is here this evening on
3 behalf of Pat Hines. They work in the same office
4 together.

5 As far as outstanding drainage issues,
6 Mark.

7 MR. EDSALL: On this particular project
8 Pat had no open comments.

9 CHAIRMAN EWASUTYN: Okay. Thank you.
10 Bryant Cocks, outstanding planning
11 comments?

12 MR. COCKS: There was no revised site
13 plan submitted. The last site plan that was
14 submitted I didn't have any comments on, so I
15 wouldn't assume I have anything going forward.

16 CHAIRMAN EWASUTYN: At this point we'll
17 turn to Mike Donnelly, Planning Board Attorney,
18 to present to us where we are in the process.

19 MR. DONNELLY: As Mr. Schutzman said
20 earlier, you had already given this project a
21 site plan approval, although that was for a
22 purely senior project. When the applicant
23 returned with this proposal for affordable
24 housing units in a market-rate project, you had
25 your consultants revisit any potential

1
2 environmental impacts, the last piece you just
3 heard which was the traffic study. The use is
4 permitted, although there may be changes here yet
5 again. The applicant has asked for a site plan
6 approval this evening. If your inclination is to
7 go that direction, I've prepared a draft
8 resolution and I can review proposed conditions
9 with you.

10 CHAIRMAN EWASUTYN: Would the Board
11 like to move forward with those conditions that
12 Mike Donnelly, Planning Board Attorney, has
13 prepared to give to us?

14 MR. GALLI: Everything is in order.

15 MR. MENNERICH: Yes.

16 MR. PROFACI: Yes.

17 MR. FOGARTY: Yes.

18 MR. WARD: Yes.

19 CHAIRMAN EWASUTYN: Okay.

20 MR. DONNELLY: Karen Arent is not here
21 tonight. At the last date I do not remember that
22 she had any outstanding comments on the
23 landscaping plan, so I assume we do not need a
24 sign-off letter from her.

25 MR. ROTHER: Excuse me, Mr. Chairman.

1 Karen does have some outstanding comments. She
2 has not seen it yet.

3
4 CHAIRMAN EWASUTYN: For the record your
5 name is?

6 MR. ROTHER: Kirk Rother.

7 MR. DONNELLY: I will leave then the
8 draft condition I had earlier that the approval
9 is subject to Karen signing off on the
10 satisfactory landscape plan based upon the
11 earlier discussions.

12 At an earlier time we were discussing
13 including a condition that allows the deferral of
14 landscaping security and fees in lieu of
15 parkland, both of which are required for this
16 project. I believe that the resolution that
17 authorized that deferral has now expired and to
18 my knowledge has not been extended. So unless
19 I'm incorrect in that regard, I don't believe we
20 can include that condition this time, and those
21 fees will be due at plan signing.

22 There was a time when we needed a
23 letter from the fire inspector regarding fire
24 hydrants, roadway widths. I don't know if those
25 have been resolved at this point.

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MR. CANFIELD: Yes, they have.

MR. DONNELLY: Okay. Next, the Town Board passed a resolution in June of 2010 that granted the affordable housing status to this project. That resolution included certain conditions, and those conditions are hereby incorporated into this resolution. Certain of the buildings are proposed to be constructed within the -- although within the building limit at distances that are quite close to the allowable limit, therefore we would typically, in this situation, put a condition that required that we surveyed those foundation stakes in the field before any concrete is poured to minimize the possibility that a building would be built outside the permissible building envelop. The Town is going to ask and the Planning Board will make a requirement that the applicant deliver to the Town easements authorizing the Town to enter onto the property to perform emergency utility repairs to water and sewer lines in the event of any emergency that requires that. The easements, of course, will have to be recorded to the Town and be satisfactory to Mark Taylor, the Town

1 Attorney. Further, the approval is conditioned
2 upon the applicant complying with the terms of an
3 out-of-district sewer user agreement entered into
4 with the Town Board in October of 2000.
5

6 We had originally required condominium
7 association bylaws. Do I understand this is now
8 straight rentals?

9 MR. SCHUTZMAN: Yes.

10 MR. DONNELLY: So there will be no
11 condominium association?

12 MR. SCHUTZMAN: That's correct.

13 MR. DONNELLY: That condition is no
14 longer needed then.

15 The plans shall not be signed until the
16 final approval of utilities, water, sewer,
17 stormwater plans, by the Town Engineer, the
18 Planning Board Engineer and the Newburgh Code
19 Compliance Department in regard to building and
20 fire code issues. The applicant is required to
21 petition the Town Board under the Vehicle and
22 Traffic Law authorizing the Town of Newburgh
23 Police Parking Enforcement and Code Compliance
24 personnel to enter the project site for the
25 purpose of enforcing parking and Vehicle and

1 Traffic Law violations on the site as if it were
2 public property.
3

4 I don't recollect where we are with
5 Architectural Review Board approval. My notes
6 don't reflect that this had been approved or not
7 approved. Was ARB granted before?

8 MR. SCHUTZMAN: Yes, it was.

9 MR. DONNELLY: Okay. I'll take that
10 from the date of the last resolution. We'll
11 include our standard condition that requires that
12 nothing may be built inconsistent with those
13 architectural renderings, and the plans will have
14 to be submitted at the time the building permit
15 plans are submitted for review by Karen Arent,
16 the Town's Landscape Design Consultant. We will
17 need a landscape security and inspection fee. I
18 believe the fee -- the inspection fee portion
19 will be in the amount of \$2,000. The amount of
20 the security will be as recommended by Karen
21 Arent to the Town Board. We will need a
22 stormwater improvement security and inspection
23 fee, a water main extension security and
24 inspection fee and a sewer main extension
25 security and inspection fee. Finally -- not

1
2 finally. Second to last, our standard condition
3 that states that the applicant may not build
4 anything on the site, including outdoor fixtures
5 or amenities, that is not shown on the approved
6 site plan. Finally, the project will need to pay
7 multi-family fees for each of the units, bringing
8 that total fee to \$322,000.

9 CHAIRMAN EWASUTYN: Mike, can we add
10 one additional condition that Jim Osborne and
11 Darrell Benedict, Town Highway Supervisor, review
12 and approve any signage along the Town road?

13 MR. DONNELLY: Yes. That makes sense.

14 MR. CANFIELD: Excuse me, John. One
15 thing on the condition on the landscape
16 inspection fee.

17 CHAIRMAN EWASUTYN: It's higher than
18 that.

19 MR. CANFIELD: That's on a sliding
20 scale based on the dollar amount of the cost
21 estimate.

22 MR. DONNELLY: Do you know the amount?

23 CHAIRMAN EWASUTYN: \$4,000 is the
24 highest it could be. I would say \$4,000 would be
25 an accurate figure.

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Thank you, Jerry.

MR. DONNELLY: Those would be the conditions then.

CHAIRMAN EWASUTYN: Comments from our Consultants? Any additions, any comments from our Consultants?

(No response.)

CHAIRMAN EWASUTYN: Board Members?

MR. GALLI: No.

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Okay. Then having heard the conditions of site plan approval for Golden Vista, the amended, I'll move for that motion.

MR. FOGARTY: So moved.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: There being no discussion of the motion, I'll move for a roll call vote for approval starting with Frank Galli.

MR. GALLI: Aye.

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MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So
carried.

Thank you.

MR. SCHUTZMAN: Thank you very much.

(Time noted: 7:26 p.m.)

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

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

DATED: August 25, 2011

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

----- X
In the Matter of

MID-HUDSON VALLEY FEDERAL CREDIT UNION
(2011-01)

Route 300
Section 97; Block 2; Lot 22.2
IB Zone

----- X

PHASE III SITE PLAN
ARCHITECTURAL REVIEW BOARD

Date: July 21, 2011
Time: 7:27 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 PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JOHN COTE & JOHN CAPPELLO

----- X

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

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2 MR. PROFACI: The next item on
3 tonight's agenda is Mid-Hudson Valley Federal
4 Credit Union, project 2011-01. It's a phase III
5 site plan and ARB, located on Route 300 in the
6 former Lloyd's plaza gas station. Section 97;
7 Block 2; Lot 22.2, IB Zone, being represented by
8 John Cote of Langan Engineering.

9 MR. COTE: The package before you is a
10 package relative to looking to meet resolution
11 compliance based upon the last approval,
12 including comments rendered by the consultants.
13 We submitted a package that had revised plans.

14 As a result of one of the comments from
15 Karen Arent, we represented additional features
16 on the site to incorporate into the revised plan.
17 We wanted to present those tonight.

18 The purpose of the application for the
19 construction of the Credit Union: Part of the
20 actual review comment from Karen was to reflect
21 any additional amenities outside the building,
22 like condensers, show that they're properly
23 screened, and anything to be added to it. What
24 we've prepared is a plan that showed condensing
25 units located on the southeast corner of the

1
2 building along with what would end up being a
3 trash enclosure area, and provided a fenced
4 screening area around that. There are revised
5 renderings, which are consistent with the
6 original renderings other than adding the fence
7 appearance in that southeast corner of the
8 building.

9 In addition, the project proposes to
10 put a flag pole along the north side of the
11 building. The second rendering that we provide
12 is relative to where the flag pole is positioned
13 on the north end just to the east of the
14 entrance.

15 Along with that, the client is looking
16 to apply for Led certification for the building.
17 As a function of Led certification, they're
18 pursuing multiple energy efficiency components
19 of the project. One of them is to propose
20 geothermal. Geothermal will be a function of
21 drilling wells in the southwest corner of the
22 building and tying in to the condensers that are
23 reflected on the southeast corner of the
24 building, and that would be part of the overall
25 energy efficiency approach they're taking towards

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the building.

They've also requested for signage for high-efficiency cars or vehicles along the northwest corner of the parking lot near the entrance to prioritize parking for those types of vehicles.

Overall the plan incorporates all the original landscaping. All the other features remain the same. Tonight's presentation is just to reconcile the screening for the outdoor enclosure area, adding the flag pole and the signage associated with the high-efficiency cars, as well as just indicating we're putting the geothermal system in for part of the overall Led package that they're looking to get the building certified for.

In the comment letters we received there's a reference to the signage package. Bryant Cocks' letter has a question regarding the signage. If I could take a moment just to describe the circumstances there. The original site, when it was approved back in 2005, included a Board of -- Zoning Board of Appeals approval of an overall signage square footage for the site,

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2 and it was calculated out at two percent of the
3 overall square footage of the site, or
4 approximately 4,900 square feet. That package
5 identified the different phases of the project
6 and the amount of signage allocated to each
7 phase. This was declared as phase III or
8 referred to as a Quick Chek at that time. In
9 that package, 160 square feet was envisioned for
10 this particular site. As a function of this
11 application, the applicant has proposed 111.75
12 square feet for the total signage associated with
13 the facility. That's under the 160 that was
14 previously allocated, which in the previous
15 allocation was under the 4,900 that was approved.
16 So to clarify for the signage, we're proposing
17 signage below what was previously approved under
18 the variance granted by the Board of Appeals --
19 Zoning Board of Appeals.

20 CHAIRMAN EWASUTYN: Jerry Canfield,
21 would you like to give your comment on that?

22 MR. CANFIELD: Sure. The signage we
23 talked about during the work session. Mike
24 Donnelly had received a copy of the decision
25 resolution from 2006, 2005 that the applicant's

1
2 representative referred to. That decision
3 resolution does not specifically spell out what
4 signage is applicable to what store, but it is
5 for the gross amount of 4,900 square feet. Karen
6 and Bryant's comments are regarding the signage
7 charts that were submitted. I believe what was
8 submitted does comply with the regulation. I
9 think what their comments are basically on is the
10 representation, like the Home Depot signage that
11 you referred to in two different locations, it's
12 two different square footages.

13 MR. CAPPELLO: I can respond to that.

14 CHAIRMAN EWASUTYN: For the record,
15 your name is?

16 MR. CAPPELLO: John Cappello with
17 Jacobowitz & Gubits.

18 If you look at the exhibit, the package
19 for the signage that was submitted, it was
20 submitted before the approval was granted. So at
21 that time Home Depot had 515 square feet of
22 signage on its building and proposed to add an
23 additional 30 to come out to 545, which is, I
24 believe, where it stands now. Also, at that
25 point the pylon sign that was out at the entrance

1
2 to the site only said Home Depot. That was 196
3 square feet at the time. So that was attributed,
4 in the application package, as existing signage
5 for Home Depot. But then if you look at what was
6 proposed, that sign was taken down and a 700,
7 approximately, square foot sign for all the
8 tenants in the plaza was located there. Then it
9 was distributed as just site signage including
10 the front sign and rear sign. So that was taken
11 away solely from Home Depot. In reality, Home
12 Depot had 515 plus an additional 30 for 545 just
13 for the building, 160 was allocated just for this
14 building, then there's a general line there
15 called site signage which I believe is for, you
16 know, the new pylon sign that was erected at the
17 entrance, and then one on Little Britain Road. I
18 think there's another smaller sign there that's
19 just directional. So it's a little -- because it
20 was done before any of the applications, it's a
21 little bit confusing, but it does -- it is
22 consistent within itself if you look through it.

23 MR. CANFIELD: Right. I think also you
24 clarified how we derived at the percentage. The
25 Town Code does not calculate signage by

1
2 percentage. It's by linear frontage of available
3 road frontage. You clarified that, how you
4 arrived at that.

5 I would suggest to the Board, though,
6 if the applicant can resubmit perhaps the
7 exhibits to clarify, and actually to exhibit that
8 there is not more than 4,900 square feet of
9 signage, it would comply. The signage that they
10 have completed -- submitted for this project does
11 comply, and I do agree with their calculations.

12 CHAIRMAN EWASUTYN: If the Board
13 agrees, can we make that a condition of approval
14 where you would be signing off on the question
15 that you raised this evening?

16 MR. CANFIELD: Yes.

17 MR. COTE: One thing to keep in mind is
18 the other phase adjacent to Kohl's on the south
19 side of the site is not built out, and it's
20 accounted for as a line item in that chart. So
21 all the different phases are in that -- in the
22 original submission we're plugging into this
23 particular one in phase III.

24 CHAIRMAN EWASUTYN: Mark Edsall
25 representing McGoey, Hauser & Edsall as our

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Drainage Consultant this evening.

MR. EDSALL: Our office's review indicates that the plans have been corrected to address the utility questions that were previously raised.

A review of the stormwater management facilities indicates that there is compliance with the original approvals prepared back in 2006. So that's still in an acceptable condition.

The one issue of temporary fencing has been addressed.

Other than that, Pat indicates that all is in order.

CHAIRMAN EWASUTYN: Questions from Board Members?

MR. GALLI: Nothing additional.

MR. MENNERICH: I have no questions.

MR. PROFACI: Nothing additional.

MR. FOGARTY: I just have one. On the signage, that main signage, are you going to put your name on that sign? Is that part of your total?

MR. CAPPELLO: I don't know.

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MR. FOGARTY: Right there I can't --

MR. CAPPELLO: I think there were two lines reserved back in the original one. I think that would be for the back tenants who might want some visibility in the front.

MR. COTE: That's correct. There's two reserved. I don't believe -- there's no intent, as far as I know, to add any of the --

MR. FOGARTY: It's right there. Good. Thank you.

MR. CANFIELD: It wasn't submitted that way. It wasn't submitted.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I have no further comments. The signage was my main comment.

I just want to note the ARB drawings have not been approved by the Board. That will have to be done before a building permit can be issued.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: I had a previous striping request and it's been addressed on the latest set

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of plans, so we have nothing further.

CHAIRMAN EWASUTYN: At this point I think the action before us is to grant amended site plan approval.

Mike Donnelly, would you give us the conditional approval --

MR. DONNELLY: Sure.

CHAIRMAN EWASUTYN: -- for the Mid-Hudson Valley Federal Credit Union?

MR. DONNELLY: I think I'm going to describe this as a revised approval. Really the conditions or the changes came from the post-approval consultant review. While that difference sounds small and semantic, I think it's more consistent with the applicant coming forward with a new amended plan.

In the last resolution Karen Arent did have a comment, it required the lowering of the -- her sign off on the lowering of the light poles to twenty feet. I'll remove that condition because that's now been accomplished. I will add in its place the requirement that the plans won't be signed until the fire inspector has written a letter certifying that the revised, or corrected,

1 or acceptable overall comprehensive sign plan has
2 been resubmitted and found satisfactory. As
3 Bryant noted, there is, as of yet, no ARB
4 approval. I will carry a condition that says that
5 this approval is subject to all of the terms and
6 conditions, except as modified here, of the
7 original site plan approval as if they're set
8 forth at length. I will note that the City of
9 Newburgh has issued it's flow acceptance letter
10 and that a demolition permit will be required to
11 be issued by the Code Compliance Department
12 before any building permit is issued. We will
13 reserve on Architectural Review Board. There is
14 a requirement of a landscape security and
15 inspection fee. The inspection fee will be, if
16 it's the same as last time, \$2,000. Lastly, our
17 standard condition that says no fixtures,
18 amenities or structures not shown on the site
19 plan may be built on the site without amended
20 approval.

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22 CHAIRMAN EWASUTYN: Any additions or
23 comments from our consultants?

24 MR. CANFIELD: John, one thing. Should
25 we mention that the deferring of the landscape --

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MR. DONNELLY: It's not in here. It's not in here.

MR. CANFIELD: -- will expire?

MR. DONNELLY: We can't do it anymore so it's just not going to be included.

MR. CANFIELD: Okay.

CHAIRMAN EWASUTYN: Any additional comments from our consultants?

(No response.)

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: No.

MR. FOGARTY: No comments.

MR. CAPPELLO: The other issue I just wanted to present to clarify, I know the property owner had discussed, when we talked about the demolition plans before, the building that this building was going -- the existing building was going to be used kind of as a staging area so we wouldn't have to put up a trailer. That building may not be demolished before construction starts because it would be utilized as kind of the

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construction office.

MR. DONNELLY: I won't tie it to the building permit.

MR. CAPPELLO: If you can say the CO has -- you know, demolished to, you know, the satisfaction of the Town, that would work better.

MR. DONNELLY: Does that work? Are you going to be able to demolish it before CO?

MR. CAPPELLO: Yes. I think it would have to be.

MR. CANFIELD: I did meet with the property owners and the developer, and I think it's a sequencing issue. They have a need to keep that building. Perhaps we could reword that condition that it would be hinged upon -- the building will be demo'd prior to the CO of the new one.

MR. CAPPELLO: That would be fine.

MR. DONNELLY: I'll change it to that.

CHAIRMAN EWASUTYN: And you're satisfied that there would be no safety features in place?

MR. CANFIELD: Right.

CHAIRMAN EWASUTYN: All right. Having

1
2 heard the conditions of approval for the revised
3 approval for the Mid-Hudson Valley Federal Credit
4 Union presented by our Attorney Mike Donnelly and
5 discussed with our consultants, I would move for
6 that motion.

7 MR. WARD: So moved.

8 MR. GALLI: Second.

9 CHAIRMAN EWASUTYN: I have a motion by
10 John Ward. I have a second by Frank Galli. Any
11 discussion of that?

12 (No response.)

13 CHAIRMAN EWASUTYN: If the Board is all
14 in favor, then I'll move for a roll call vote
15 starting with Frank Galli.

16 MR. GALLI: Aye.

17 MR. MENNERICH: Aye.

18 MR. PROFACI: Aye.

19 MR. FOGARTY: Aye.

20 MR. WARD: Aye.

21 CHAIRMAN EWASUTYN: And myself yes. So
22 carried.

23 Congratulations.

24 MR. COTE: Thank you very much.

25 CHAIRMAN EWASUTYN: Do you have more --

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just a question. Do you have a date in mind when you may come forward for ARB approval?

MR. CAPPELLO: I think we, you know, did have ARB approval in the original one and we --

MR. DONNELLY: I thought we didn't. Bryant?

MR. CAPPELLO: It was in the resolution. I think the only issue was we were going to just fill out the form.

MR. DONNELLY: April 21st you had ARB.

MR. WARD: The sign was the only issue.

MR. CAPPELLO: We would ask for amended based on the sign and the enclosure. We were hoping to pull building permits in the next week or so.

CHAIRMAN EWASUTYN: Would you then give your presentation as to what you're looking for and we'll act on that?

MR. COTE: Relative to the prior application, the elevation views are identical in terms of the content. Other than adding just the screened fenced enclosure here along the southeast corner. That enclosure will screen two

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2 condenser units and two trash units. The rest of
3 the landscaping that's been proposed is
4 identical. We haven't modified that in any way.
5 The remaining elevations around the building are
6 also identical.

7 The only feature that we've added to
8 the rendering is just the flag pole in the front
9 of the building on the north end. Other than
10 that, there are no additional architectural
11 modifications that we're requesting for the
12 Review Board.

13 CHAIRMAN EWASUTYN: So the Board would
14 be approving -- re-approving the approved ARB
15 with the understanding that the new presentation
16 shows a flag pole which originally wasn't shown
17 and that there's some additional screening of the
18 air conditioning units that wasn't shown on the
19 original plan?

20 MR. COTE: That's correct.

21 MR. MENNERICH: You still have to
22 complete the forms specifying all the colors.

23 MR. COTE: Correct. We'll file that
24 form as early as this week. Should we send it to
25 your attention?

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CHAIRMAN EWASUTYN: No. Send it to Karen Arent. Karen will look at it based upon the manufacturer's specs.

MR. COTE: Very good.

CHAIRMAN EWASUTYN: Having heard those minor changes and the addition, I would move that we amend and re-approve the ARB for the Mid-Hudson Valley Federal Credit Union.

MR. WARD: So moved.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a favorable approval starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Congratulations.

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MR. COTE: Thank you.

MR. CAPPELLO: We did also submit the estimate for the site work and landscaping. Is it possible that we could get that -- does the Board approve the amount or --

CHAIRMAN EWASUTYN: The Town Board.

MR. CAPPELLO: The Town Board would approve the form. Do you look --

CHAIRMAN EWASUTYN: What happens is Karen Arent makes a recommendation to the Town Board for the landscape cost estimate or performance securities. Jim Osborne and the Town Attorney review that.

MR. CAPPELLO: We'll follow up. Thank you very much.

(Time noted: 7:44 p.m.)

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

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

DATED: August 25, 2011

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

----- X
In the Matter of

ALL GRANITE AND MARBLE CORP
(2011-14)

Brookside Farm Road
Section 97; Block 1; Lot 20.2
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: July 21, 2011
Time: 7:45 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 PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ANDREW FETHERSTON

----- X

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

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ALL GRANITE AND MARBLE CORP.

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MR. PROFACI: The next item of business is All Granite and Marble Corp, project 2011-14. It's a conceptual site plan located on Brookside Farm Road, Section 107; Block 1; Lot 20.2, in an IB Zone, and it's being represented by Justin Dates of Maser Consulting. Maybe not. Andrew Fetherston.

MR. FETHERSTON: Thank you. Mr. Chairman and Members of the Board, I'm Andrew Fetherston from Maser Consulting. I'm here representing All Granite and Marble Corporation.

This is a parcel that we brought before the Board previously for a different application that was previously Planning Board number 2007-48. This, however, is a completely different application.

This is for the combination of a warehouse fabrication site with retail and ancillary offices for granite manufacturing and marble manufacturing. The site is approximately 3.6 acres. It's bordered on the south side by Brookside Farm Road. Across the street is the Pepsi Co. The

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ALL GRANITE AND MARBLE CORP.

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off ramp from eastbound I-84 where it gets you onto Route 52 borders our north property line. Quassaick Creek is on the other side.

Can you see that? Do you want me to turn it?

CHAIRMAN EWASUTYN: Please. Thank you.

MR. FETHERSTON: So you have Brookside Farm Road, Interstate 84, Quassaick Creek. North is straight up the page.

It's about 3.6 acres. It's located in the Interchange Business or the IB zoning district.

The building is -- there's approximately 14,000 square feet of Army Corp wetlands associated with Quassaick Creek. We had the Army Corp of Engineers on the site back in May with the plans. We located accurately on the plans that wetland that was deemed to be under their jurisdiction. A jurisdictional determination from the Corp is pending.

The plan proposes two levels, a lower level -- this is all to work with the topography. The high point on the site is here, it's actually quite high, and then the site drops back down.

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The site also drops down to the Quassaick Creek. Brookside Road also drops down. The low point is the bridge across the creek. We're looking to work with the site, having the entrance at the upper level to service customers, have them enter through this section.

Sixty-eight parking spaces on the top, which meets code. There will be a second entrance down at the bottom for trucks with four loading zones.

I believe we are not in the sewer district so we'll need to either seek outside user status or get into the sewer district, although there are trunk lines traversing our site. The easements are shown on the map.

We do need a zoning variance, an area variance. We meet the frontage along Brookside Farm Road but there's a sixty-foot rear yard setback. When we had the prior application this was deemed to be a rear yard under the code interpretation for the off ramp. So that --

MR. DONNELLY: Front?

MR. FETHERSTON: I'm sorry?

MR. DONNELLY: It was a front under the

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old code. You had two front yards.

MR. FETHERSTON: I'm sorry. You're right. It was deemed to be a rear yard which increased it from fifty feet to sixty feet. So we're exceeding that sixty-foot setback.

The majority of the building is about fifty-one or fifty-two feet off of the property line where a sixty-foot setback is required. However, there's an architectural element that is consistent with the facilities owned by the granite company that would reduce that setback down to a little bit more than thirty-nine feet. So we're looking for direction from the Board to the Zoning Board to get that review worked on. That's it.

CHAIRMAN EWASUTYN: Okay. Can we have the pleasure of having your name?

MR. FETHERSTON: Robert Dascia. He's from --

CHAIRMAN EWASUTYN: If you could take your time, please, and explain to us the operation of your business, a little bit of history about it. It always helps in the planning process. We have great people like

1
2 Andrew Fetherston, very good at engineering, but
3 we never really have a sense of how it's going to
4 operate and how you are operating.

5 MR. DASCIA: My name is Robert Dascia,
6 I'm general manager of All Granite and Marble
7 Corp. We're a granite countertop fabricator. We
8 have currently five facilities operating
9 throughout the tri-state area. The main office
10 headquarters are located in Ridgefield Park, New
11 Jersey; and then we have South Plainfield;
12 Stroudsburg, Pennsylvania; Danbury, Connecticut;
13 and Deer Park, New York.

14 We are one of the largest fabricators
15 on the east coast. On a daily basis we're
16 manufacturing close to eighty kitchen setups so
17 to speak. We have our own yard with the natural
18 stone. Every facility has over 1,000 unique
19 colors of granite, so we serve contractors and
20 individual homeowners.

21 We're in business for over twelve years
22 and we're steadily growing. That's one of the
23 locations that we're looking to develop in the
24 nearest future.

25 CHAIRMAN EWASUTYN: And the amount of

1
2 retail space that you have presented you feel is
3 -- satisfies your needs, your current needs and
4 looking into the future? Your warehouse space is
5 what experience tells you you need at this time?
6 Just if you'll elaborate on just some of the
7 features.

8 MR. DASCIA: Well, that building is
9 kind of on a smaller scale. Usually we're looking
10 for warehouses around 80,000 square feet of
11 warehousing space. We feel for that market it's
12 actually a perfect size of the building
13 accommodating our needs for now, and I think for
14 the future in terms of the warehousing space as
15 well as the office space. We need a little bit of
16 space for the showroom area so we can have our
17 customers look at the samples of granite and so
18 we can do the estimates for them. The most
19 important I guess is the warehousing space and
20 the fabrication area where we process our pieces.
21 I guess that's it.

22 CHAIRMAN EWASUTYN: Okay. And if all
23 goes well you would like to be up and operating
24 by when?

25 MR. DASCIA: As soon as possible. We

1
2 want that process to be facilitated as quickly as
3 possible because we're ready to start operating
4 and bring the business here, even tomorrow.

5 CHAIRMAN EWASUTYN: Comments from our
6 Members. Frank Galli?

7 MR. GALLI: The height of the building,
8 Andrew, is how high?

9 MR. FETHERSTON: Tony Garrett is the
10 architect. Maybe I'll let him speak on the
11 building.

12 MR. GARRETT: Anthony Garrett, the
13 Architect. I've done three of the other
14 facilities for All Granite. Actually, we're not
15 the -- the building is not terribly tall. It
16 meets the zoning requirements. We followed the
17 topography. It actually steps up the hill. The
18 portion on the upper level, the roof line is -- I
19 believe it's around thirty feet or so above the
20 grade at that point. It steps down. The portion
21 to the west, which actually under slings the
22 upper portion, again it's in that twenty to
23 thirty feet above grade depending on the slope of
24 the grade. We've been developing internal plans.
25 That footprint of the building is not arbitrary.

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2 It's set by crane rails and the space we actually
3 need to set up the saws. They need to set up the
4 saws, I just accommodate it. I put the skin
5 around the saws.

6 We need to have adequate warehousing
7 and support facilities within the building for
8 the dust control and things like that. All that
9 equipment is housed within the footprint of the
10 building.

11 It's actually a treat to work -- I'm
12 not being facetious or funny. It's a treat to
13 work on the buildings because we don't get to do
14 a lot of industrial buildings that get cladded in
15 granite. That's a feature -- a branding feature
16 of the building where we detail the exterior
17 facades to include significant amounts of stone.
18 It's a marketing tool.

19 As Andrew mentioned to you, this ark
20 that we have on the building is kind of a
21 "branding." All the facilities include that kind
22 of icon, and it's usually a segmented curved
23 stone panel with a curtain wall, aluminum in
24 glass. As we're developing this, and hopefully
25 this project moves forward, we'll be presenting

1
2 elevations, working with the Board's
3 professionals and the Board themselves to
4 integrate your comments. These are generally
5 attractive buildings. They're stone, which is a
6 great product to work with.

7 CHAIRMAN EWASUTYN: Thank you, Anthony.

8 MR. GALLI: That's it.

9 CHAIRMAN EWASUTYN: Ken Mennerich?

10 MR. MENNERICH: Just a question on the
11 stone. Along Taft Road, that would also be --

12 MR. GARRETT: Yes. There's stone along
13 Brookside. The stone panels are on the front
14 facades of the building. The rear facade where
15 the trucks are, we probably wouldn't include a
16 stone veneer just because it's really not
17 appropriate.

18 The buildings all tend to work with a
19 similar color scheme. We're using a gray/green
20 type of granite, and the curtain wall matches
21 that. Although we probably will be seeking Led
22 certification on the building as well, so we look
23 to bring in daylight. We work on demonstration
24 patterns that maximize the amount of daylight
25 that we can harvest in the warehouse areas so

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that they don't have to run the lights as often,
plus it's better for the clients to see the
stone, the natural stone product in the longer
daylight.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm sorry, what was your
name again?

MR. DASCIA: Robert.

MR. PROFACI: Robert, are you importing
the material?

MR. DASCIA: Yes, that's correct. We
import our direct stones. We are one of the
largest importers actually in the tri-state area.

MR. PROFACI: How many countries do you
import from?

MR. DASCIA: Right now I think around a
hundred different countries. It's from all over
the world.

MR. PROFACI: Okay. Thank you. Very
interesting.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: Just a quick one. If
this project continues, you do have the wetlands
that are really close with that loading dock. As

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the stormwater runoff and all that other stuff,
it will be interesting to see how you're going
to --

MR. GARRETT: That's his problem. I
worry about the stone on the building.

MR. FOGARTY: You take care of the
stone, you take care of the water.

MR. FETHERSTON: Understood.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: My question was I read
somewhere that the height was going to be like
thirty-nine and-a-half feet and our guidelines
say thirty-six feet. We try to keep it within the
minimum for the Town, keep it within code.

Another thing is in the back where you
have your loading dock and all, it looks like
when you're going to store trucks for shipping,
it looks very tight. Whether you want to adjust
your building a little bit to give you more room
in the back. For fire access and traffic going
in and out, it looks pretty close. Thank you.

MR. FETHERSTON: That layout is
actually kind of dictated to us. The
configuration is kind of dictated to us by the

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2 sewers that are traversing the site. We wanted
3 to keep everything off of it as best as we could.
4 We understand your comment.

5 CHAIRMAN EWASUTYN: Jerry Canfield,
6 Code Compliance?

7 MR. CANFIELD: I have a question for
8 the architect. We talked about stone veneer on
9 the building. What construction class?

10 MR. GARRETT: Type 2B.

11 MR. CANFIELD: 2B. Block and steel?

12 MR. GARRETT: Steel frame skeleton.
13 Where the stone panels are located we would have
14 a block backup. There will be some metal panel
15 portions of the building, probably a stud backup
16 of lighter weight construction. It would be type
17 2B.

18 MR. CANFIELD: Steel bar joist roof?

19 MR. GARRETT: It might actually be
20 rolled sections. I'm not sure. It will be
21 structural steel, yes.

22 MR. CANFIELD: Okay. There is a
23 requirement in the Town of Newburgh, I'm sure
24 Andrew is aware of, that the building will be
25 required to be sprinklered by Town of Newburgh

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Ordinance. It's more stringent than the International Fire Code.

MR. GARRETT: Okay. Some of the warehouse areas really don't require heat, so we might be looking to put a dry system in a portion of the building.

MR. CANFIELD: A dry system would work there. Sure.

That's all I have, John, conceptually.

CHAIRMAN EWASUTYN: Mark Edsall?

MR. EDSALL: Our office has reviewed the plans and at this point they're very conceptual. We're just noting that future plans need to include all the information on grading, site utilities, retaining walls that will be tied into the grading plan, and stormwater management.

Two issues that we just want to point out as issues that really you discussed but we also have a shared concern, is to deal with the outside user agreement and sewer acceptance letter for the flow for the tie in to the sewer facilities.

And secondly, as was pointed out by both I think the applicants and Board Members,

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ALL GRANITE AND MARBLE CORP.

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your proximity to the hundred-year flood plain and wetlands needs to be addressed, both from an approval standpoint as well as an impact standpoint. That's it.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: As previously mentioned, they will need a rear yard setback variance for 39.8 feet while 60 feet is required.

On the Town of Newburgh Design Guidelines, a request that the applicant move the parking into either the rear or side of the lot since this lot does have a weird configuration. It is on the side but it is directly against Brookside Farm Road. Maybe some screening and landscaping to block the grills of the cars and make it aesthetically pleasing moving up the road.

As mentioned, a truck circulation plan will be needed for the loading dock area.

The lighting plan is going to need to be reviewed thoroughly, and the Thruway Authority, I'm sure, is going to also want to review that because of its proximity to Route 84.

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I'm not sure if they allow signage pointing straight to the Thruway like that. They might want to take a look at that also.

The wetlands and flood plain were previously mentioned.

That was about it.

CHAIRMAN EWASUTYN: Ken Wersted -- excuse me. Mark Edsall.

MR. EDSALL: Jerry and I were just discussing -- as a matter of fact, Jerry asked me and I did not know the answer. Perhaps as part of your re-submittals, either through the SEQRA information or correspondence with the Board, you could indicate the water usage at the facility. Obviously for offices it's easy for us to figure out, but on the process side we're not sure what usage it would have.

MR. GARRETT: Sure. I would just mention in the other facilities the ridge saws use recycled water. We actually capture the water, settle, recirc it. It's not a big water usage. We'll provide the data.

MR. EDSALL: If we're looking to conserve water, the Board may look down the road

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to have some kind of a note indicating the type of system.

MR. GARRETT: I did have a question of the Planner, if I might. May I ask a question of the Planner, please?

Can you offer an opinion in terms of land banking of parking stalls?

CHAIRMAN EWASUTYN: We were talking about that earlier.

MR. COCKS: The Planning Board has discussed that with other projects, providing grass area where you can provide additional spaces. This does meet the current parking requirement. There are some areas all the way at the end at the peak of the triangle that could be used for that. I did mention to the Board that you're showing a stormwater area and that's -- if you make an underground system you can land bank some parking spots down there. I'm sure that would be amenable to the Board.

MR. GARRETT: Great.

CHAIRMAN EWASUTYN: I'll pose that question to the Board. Frank Galli?

MR. GALLI: No problem.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Just to make sure I understand it right, for the number of people that will be working there and the number of people that will be visiting, you need less spaces than is shown on this plan?

MR. GARRETT: Most likely, yes. We'll provide the data as part of your --

MR. FETHERSTON: Based on their experience, we figured twenty-five employees.

MR. MENNERICH: The reason we would want to have it land banked is if the building ever changed hands and it was a different use, then it would meet the code. Thank you.

CHAIRMAN EWASUTYN: Your hours of operation?

MR. DASCIA: We're open from 8 until 5.

CHAIRMAN EWASUTYN: Land banking, are you in favor of that?

MR. PROFACI: Yes. I'm just wondering, would the stormwater facility be put underground immediately in order to land bank that portion?

MR. FETHERSTON: It could be put underneath the parking. We were putting it up at

1
2 the top just to avoid the loading issues, but we
3 can look at that. Whether parking is on it today
4 or at a later date, we could definitely look at
5 that. We wanted to show we knew we were going to
6 be doing something in that area. We'll have to
7 look at it. We'll have to look at it. It would
8 certainly be underground.

9 MR. FOGARTY: That's fine. At work
10 session I think you have sixty-eight spots, which
11 seem to be an awful lot. Banking a number of
12 spots is fine.

13 CHAIRMAN EWASUTYN: John Ward?

14 MR. WARD: I agree.

15 MR. GALLI: John, I just have one more
16 question. Are there going to be trucks stored on
17 this site or is there just going to be stuff
18 bringing in, stuff going out? Are you going to
19 have your own trucks?

20 MR. DASCIA: We have our own trailer
21 and trucks to do the deliveries. They're not
22 going to be stored on the site.

23 MR. GALLI: They'll not be stored?

24 MR. DASCIA: No. They're usually
25 stored in our main facility in Ridgefield Park

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and then we say what container, what material goes to what facility.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: I think all my comments have been asked. Andrew knows the site is difficult in its location.

As mentioned before, the truck circulation in the rear of the building, making sure that the delivery vehicles can get in and out of there adequately.

The sight distance at each of the intersections is important.

Then the issue revolving around the parking. The site does meet the code, but if you anticipate that you don't need that much parking, then land banking some of the spaces would certainly -- I think the Board will look favorably on that.

MR. FETHERSTON: John, if I may. What were you thinking as maybe a percentage? Ten, twenty percent? Seven spaces? Fifteen spaces?

CHAIRMAN EWASUTYN: We're waiting to

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hear from you. You know your needs.

MR. FETHERSTON: Okay.

CHAIRMAN EWASUTYN: You would come back to us and we would then --

MR. FETHERSTON: We'll talk about it.

CHAIRMAN EWASUTYN: That's a business use decision --

MR. FETHERSTON: Okay.

CHAIRMAN EWASUTYN: -- it's not a Planning Board decision.

MR. WERSTED: Is there any waiver or anything that the Board would need to grant if they say proposed fifty-eight spaces instead of sixty-eight?

MR. DONNELLY: We've usually included a resolution condition that requires notes that the site plan shows they've been provided the full compliment, that we're allowing less than that to be built initially. We usually have language that states it's the Planning Board's sole discretion when to require it. If upon experience a parking lot has been overloaded and we, unlike some other municipalities, don't allow it to die after a period of years, it will stay an approval

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condition. We've done it that way in the past.

MR. WERSTED: Okay.

CHAIRMAN EWASUTYN: Jerry, are you okay with that for now?

MR. CANFIELD: I was looking just to reiterate that there is an exception in the code that does grant the Planning Board the authority to make that determination.

CHAIRMAN EWASUTYN: Thank you. There are a few actions and items I would like to discuss with the All Granite and Marble Corp. The first one is we will be granting conceptual site plan approval but with the understanding, and Bryant will give the reason why, we'll be waiving the design guideline standards. I think we should act on that as part of the conceptual site plan approval.

Bryant.

MR. COCKS: Because of the situation of the lot being triangular in shape and being no rear yard to speak of, the only position that the parking could be in would be in the side yard, and the applicant will provide screening and landscaping to mitigate the impact of having cars

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ALL GRANITE AND MARBLE CORP.

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on Brookside Farm Road.

CHAIRMAN EWASUTYN: Thank you.

With that presentation by our Consultant, Bryant Cocks, we then have the reasoning behind waiving the design guideline standards and granting conceptual approval to the All Granite and Marble Corp.

We'll also move this evening to declare our intent for lead agency, to circulate to the Orange County Planning Department, and we'll have Mike Donnelly discuss with us this evening the referral to the ZBA for a front yard variance.

Mike.

MR. DONNELLY: I will write a letter on behalf of the Board to the Zoning Board requesting that they consider granting a rear yard variance for the 39.8 feet shown where sixty is required. You will, however, have to apply to the Zoning Board for that variance. You will not need to appeal from a denial from the building inspector. You'll report back to us after you've had action from them.

CHAIRMAN EWASUTYN: I'm curious just from a thought process, you have to get outside

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user status for sewer. Would you simultaneously then be looking for a City flow acceptance letter? Would that make sense?

MR. EDSALL: I would think.

CHAIRMAN EWASUTYN: I just thought I'd give you my thought on that.

MR. FETHERSTON: Right, right. I'll discuss it with McGoey's office. Sure.

CHAIRMAN EWASUTYN: I think that covers everything this evening.

Robert, thanks for coming.

CHAIRMAN EWASUTYN: I have to move for a vote. Thank you.

I'll ask for a vote on the motion that was just presented.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by -- Tom Fogarty, was that?

MR. FOGARTY: That's good.

CHAIRMAN EWASUTYN: Thank you. By Tom Fogarty. Any discussion of the motion?

(No response.)

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ALL GRANITE AND MARBLE CORP.

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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: And myself. Thank
you.

(Time noted: 8:09 p.m.)

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

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

DATED: August 25, 2011

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

----- X
In the Matter of

MID-HUDSON MARINA
(2010-19)

River Road
Section 121; Block 2; Lot 1
R-1 Zone

----- X

RESIDENTIAL SITE PLAN

Date: July 21, 2011
Time: 8:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: CHRISTOPHER VIEBROCK

----- X

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

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2 MR. PROFACI: The next item of business
3 is the Mid-Hudson Marina, project number 2010-19,
4 a conceptual residential site plan on River Road,
5 Section 121; Block 2; Lot 1, located in the R-1
6 Zone, being represented by Chris Viebrock from
7 the Chazen Companies.

8 MR. VIEBROCK: Good evening. Chris
9 Viebrock of the Chazen Companies. I'm joined by
10 Nick Cardaropoli Senior, Mid-Hudson Marina.

11 Since we were last in front of the
12 Board in March we went back and, as requested by
13 the Board, we prepared an as-of-right plan for
14 the Mid-Hudson Marina parcel as per the zoning.
15 That would include twenty units, a hundred and
16 four boat slips, residential buffer. All units
17 would then meet the setbacks, coverage
18 requirements, everything that's in the overlay
19 district for the marina overlay for this project.

20 Starting with that as our beginning, we
21 then created a preferred alternative plan, which
22 is what Mr. Cardaropoli would like to build,
23 which was requested by the Board. We basically
24 stayed with the twenty-unit concept. We utilized
25 the further clustering of the buildings in order

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2 to get the roadway and all pavement out of the
3 residential buffers so that we can meet that
4 requirement. All units are going to be within
5 the setbacks. No variances are required for this
6 project.

7 The only change/difference between the
8 as-of-right and the preferred alternative is a
9 request to -- for sailboat moorings in lieu of
10 actual boat slips.

11 The access to the property has been
12 changed as well to now utilize Oak Street. There
13 is a private drive that runs from the end of Oak
14 Street to the project site. We have a letter and
15 documentation, including deeds and title
16 insurance reports, indicating that the Mid-Hudson
17 Marina property does have access rights to that
18 road. However though, that is limited to the
19 actual roadbed from what our legal counsel and
20 title insurance has determined. There is no
21 physically described easement or right-of-way in
22 any of those deeds. These are very old deeds that
23 they just do exceptions to that road. So we're
24 going to -- at this point in time we're going to
25 utilize that road. As a result, we were able to

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2 reduce a significant amount of pavement,
3 impervious coverage to improve the visibility of
4 this project from the Hudson by having it mostly
5 green. We did all the parking disbursed in and
6 amongst the actual development.

7 So if the Planning Board sees favorable
8 on this concept, I believe the next step, because
9 of the Town Law 280-A, would be a referral to the
10 Town Board to begin an open development area
11 process, and also we probably would look to them
12 to maybe consider amending the code to include
13 some provision for moorings as well as sailboat
14 -- boat slips.

15 CHAIRMAN EWASUTYN: Frank Galli?

16 MR. GALLI: I have no additional.

17 CHAIRMAN EWASUTYN: Ken Mennerich?

18 MR. MENNERICH: The buildings that are
19 on the riverside of the railroad track, what's
20 that going to be?

21 MR. VIEBROCK: That's just going to be
22 the marina shop, the snack shop. We've always
23 intended that. The label may have gotten deleted
24 off when I resubmitted the plans. That is just
25 the marina shop, maybe a small bait shop. People

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fish off the pier.

MR. CARDAROPOLI: Can I say something to help clear it for you folks?

CHAIRMAN EWASUTYN: For the record, your name?

MR. CARDAROPOLI: Nick Cardaropoli Senior.

We had information, wine and cheeses for -- we invited everybody from all along River Road, from one end to the other, and anybody that could see it up above. We had quite a few people. We had three of them. I was off to Florida and they had one during the winter. We see that 99.9 percent of the people were dead for it. They even said they would come here. But the newspaper -- when we presented it to the Town, because we needed to change this, it was approved for a restaurant and 287 boat slips, which I felt was much too many when we took over. My son lives right up here and I used to live right over here. I didn't feel that it ever -- a restaurant should have ever been put there because then it becomes a nightclub, it's noisy and all that. This was all parking. So they

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2 liked the idea of having everything green. And
3 then a young lady from the newspaper wrote a very
4 nice article after she called me and had a lot of
5 questions. That's how we got from 287 down to
6 what we're proposing now.

7 At one time we had the idea of building
8 some castles there and making very luxury units
9 in there, but due to the economy we're going to
10 have very upscale villas. There won't be no
11 castles there.

12 The Town Board, when we gave them the
13 first presentation, our architect drew a lot of
14 different castles essentially for the Planning
15 Board to pick. They were all reconstructed from
16 the Downing project, Dick's castle, Osborne's
17 castle. That's not practical to build now. We do
18 have a demand for the villas from people who live
19 in the area that want to just be here in the
20 summer and that and have a nice upscale villa.

21 CHAIRMAN EWASUTYN: Thank you.

22 MR. CARDAROPOLI: And that kind of --
23 this has been going on for five or six years.
24 First the State was going to buy it, they
25 couldn't come up with the money. In the meantime

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2 we've been paying all the expenses and trying to
3 get everything to go. The only way to go is to
4 build it out under the directions of the Planning
5 Board.

6 Now, I know there were people who got
7 upset, but I was the one who thought maybe we
8 should have another entrance. I told my son and
9 him to come. I was told awhile back by the
10 Planning Board to go to the Town Board and get
11 some things straight, which I did. But we want
12 to do this along with the Planning Board, with
13 your consultants, whatever we build. We were for
14 generations in this area and we've never had a
15 problem. You can go inspect anything we did from
16 here to Hilton Head. We're doing a project now in
17 Orange Lake and I think that the consultants and
18 the engineers, the Town people, the municipality
19 have been very happy with us. Everything we try
20 to do, we try to do upscale, and no one has ever
21 had a complaint with us.

22 CHAIRMAN EWASUTYN: Thank you. Ken
23 Mennerich?

24 MR. MENNERICH: Is your intent that the
25 people that would be using the facilities between

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the railroad and the river be mainly the villa tenants?

MR. CARDAROPOLI: Probably all. That's the best way to put it. It's for them.

MR. MENNERICH: Thanks.

MR. CARDAROPOLI: If you had the other way, you'd get -- you know, that's been kind of a junky marina for a long time. We did a lot of cleaning up there and we found everything in the water, including boat engines. It's all clean now.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

MR. FOGARTY: I was down there today and it's going to be a nice -- it's a nice area down there. I like the changes with the Oak Street -- using Oak Street.

You addressed -- I think we had a concern about the buffer area up in the back. That was all addressed.

I think this is going to be a great project for the Town.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I was going to say thank you

1
2 for addressing everything we recommended to help
3 the situation. It looks beautiful the way it is
4 with the private entrance with Oak Street. It's
5 going to be a nice little community there.

6 MR. CARDAROPOLI: And I'm going to live
7 there so, you know, I'll be one of the people in
8 the villas.

9 CHAIRMAN EWASUTYN: Mike, since you're
10 next in line, do you want to give us a brief
11 review of what Chris Viebrock had mentioned as
12 far as 280-A variances?

13 MR. DONNELLY: Let me talk about a few
14 issues that are intertwined. This project needs
15 both site plan approval from the Planning Board
16 as well as certain changes to the marina
17 provisions of the code, both definitionally,
18 perhaps in terms of density, that piece may have
19 gone away, I don't know, and maybe in terms of
20 buffering. Those things were discussed in March
21 and I don't know where they've gone. Clearly
22 there's an approval from the Town Board. This
23 cannot be built under the current marina
24 provisions. I think the Town Board is aware of
25 that and they're willing to discuss that, and of

1 course they'll have to have their own public
2 hearing on that aspect.
3

4 The other thing that was touched upon
5 is Section 280-A of the Town Law of the State of
6 New York. It's a somewhat confusing section but
7 let me tell you what it says in broad strokes.
8 Before a building permit can be issued for a
9 structure on a lot, that lot has to satisfy the
10 access requirements of Section 280-A. Generally
11 that means that there has to be a road of a
12 certain formal status, either a Town, County,
13 State road or a road that is shown on an approved
14 subdivision plat or a roadway shown on the Town's
15 official map. Secondly, that road must be
16 improved to a specification set by the Town Board
17 or higher level of government. A Town roadway
18 spec or something of the kind. If an applicant
19 has the roadway of the required formal status but
20 it is not improved to the specification of the
21 Town Board, and the applicant does not wish to
22 improve it to the specification of the Town
23 Board, they can go to the Zoning Board for what
24 is commonly called a 280-A variance which allows
25 that applicant to obtain a variance from the

1 specification, the Town road specification, based
2 upon a standard of adequacy of access for fire
3 and emergency personnel. You can't get a
4 variance from the requirement, however, that the
5 roadway have the appropriate formal status.
6 Thus, if your access to the Town road is by way
7 of easement or right-of-way, the Zoning Board
8 can't help you. The Town Law, however, does make
9 provision for what's called a creation of an open
10 development area, which is an allowance by the
11 Town Board for development to occur across what
12 is a right-of-way or an easement access. That
13 approval requires both the Town Board and the
14 Planning Board. The Town Board has to resolve to
15 create the open development area but they must
16 first seek the report and recommendation of the
17 Planning Board. The Planning Board is permitted
18 to put forth recommended specifications of both a
19 specific nature, meaning for this open
20 development area, or of a general nature for open
21 development areas in general. I don't believe
22 the Town of Newburgh has any other open
23 development areas. I'm not quite sure.

24
25 One of the problems that occurs is

1
2 SEQRA. We now have at least three distinct
3 approvals right here in the Town of Newburgh, the
4 Town Board approval for the zone change, the Town
5 Board approval on the open development area and
6 the Planning Board approval on the site plan.

7 I guess to complicate matters a little
8 bit, in an earlier iteration this project had
9 full-blown SEQRA review as I understand it.
10 There was an EIS of some kind. I guess we should
11 really revisit and see what issues were not
12 addressed in that that need to be addressed now.

13 The reason I put all this forward is
14 you've got multiple places to go, who goes first,
15 who is going to be the lead agency, is there
16 going to be a De novo negative declaration, are
17 we going to look at the old SEQRA and see if the
18 issues are covered. I suspect the Town Board
19 will at least have to examine the issues of the
20 open development areas because they could not
21 have been, I don't think, addressed before
22 because the access was in another direction. And
23 I think we've got to get a handle on how best to
24 do that. It seems to me that, maybe it's because
25 I represent this Board, that it's more logical

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2 that the Planning Board be the lead agency than
3 the Town Board, at least for the site plan and
4 the open development area. However, the Town
5 Board would traditionally be the lead agency for
6 a zone change. Neither the Planning Board nor the
7 Town Board can act until we've closed out SEQRA,
8 either with a negative declaration or a
9 consistency determination if the existing EIS is
10 thorough enough for the issuance of a De novo
11 negative declaration. I think we have to come up
12 with some kind of game plan here.

13 Back in March the Town Board asked for
14 some recommendations on some of the issues. I
15 think the feeling was it wasn't firm enough to
16 know. Now you've come forward with a firmer
17 proposal and the Town Board probably, with
18 greater formality on both the zone change
19 application and the open development area, will
20 ask for the reports and recommendations of the
21 Planning Board.

22 So I guess what I should do is try to
23 get together with Mark Taylor and see who -- so
24 we don't have a fight over this, so we can reach
25 some kind of agreement over who can best be lead

1 agency. We could also conceivably segment out,
2 if permissible, the Town Board's review from the
3 Planning Board's review because SEQRA says you
4 can segment as long as the way in which you do it
5 is at least as protective of the environment as
6 if all other review would be done at once. I say
7 that because my suspicion is if you can't get the
8 open development area created, or if you can't
9 get the zone changes you propose, then you
10 probably don't want to do any more design work on
11 the site plan. If we don't segment, you're going
12 to have to design the project in order to
13 complete SEQRA to then get a ruling on your zone
14 change and your open development area. If you
15 don't get those you'll be very unhappy.

17 MR. CARDAROPOLI: Let me ask a question
18 to you. That was approved as a subdivision
19 before for a restaurant and a marina. It didn't
20 have any residential houses. We went to the Town
21 for about a year-and-a-half. Mark Edsall and the
22 law firm worked on it and they got it all
23 straightened out. They gave us a variance to do
24 the townhouses or the villas. So I thought that
25 was all put to bed.

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2 MR. DONNELLY: It may be. Somebody then
3 has to put together that history, the EIS, what
4 issues were addressed, were not, and someone's
5 conclusion that there were no further
6 environmental issues. I don't have that.

7 MR. CARDAROPOLI: I think Mark Taylor
8 has it. I would rather have the Planning Board
9 be the lead agency. They have all the experts and
10 all the consultants, and you have an attorney.
11 You have everything that you need. If you're the
12 lead agency I think it will go --

13 MR. DONNELLY: With the Planning
14 Board's permission I can consult with Mark
15 Taylor, write a letter to the Planning Board
16 copying the applicant on what appears to us to be
17 the most efficient, streamlined procedure on how
18 to handle this, and then you can take the ball
19 from there.

20 CHAIRMAN EWASUTYN: I'll put that
21 before the Board Members for their approval.

22 Frank Galli?

23 MR. GALLI: Definitely.

24 MR. MENNERICH: Yes.

25 MR. PROFACI: Yes.

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MID-HUDSON MARINA

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MR. FOGARTY: Yes.

MR. WARD: Yes.

MR. CARDAROPOLI: Does that mean we have final?

CHAIRMAN EWASUTYN: Considering we weren't invited for cheese and wine.

MR. GALLI: John, I was. John and I were.

CHAIRMAN EWASUTYN: Thank you. It's good that we looked at their three fine points that needed to be understood.

MR. CARDAROPOLI: Do you have any questions?

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Just one question. Early on in the project, the fire pump, is it still the intention to utilize river water for fire suppression?

MR. CARDAROPOLI: Yes.

MR. CANFIELD: And the villas will be sprinklered?

MR. CARDAROPOLI: Yes.

MR. VIEBROCK: Yes.

MR. CANFIELD: Okay.

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MR. CARDAROPOLI: There's a lot of water down there.

MR. CANFIELD: Thank you.

MR. CARDAROPOLI: Not in the river. I mean in the ground.

CHAIRMAN EWASUTYN: McGoey, Hauser & Edsall?

MR. EDSALL: Our office reviewed the plans. The first issue addressed the item that Mike Donnelly discussed, 280-A. That was a much better explanation than I'll even try. I will just add to it that somewhere along the line, as part of the evaluation of the access, the Board should hear from Counsel that the access is adequate from an easement and legal standpoint. Secondly, you'll have to deal with physical access, that the physical improvements are in an acceptable form for the volume of traffic. That's just an evaluation that will need to be made as the project progresses.

The second comment lists a number of anticipated agency approvals. Some may in fact be permits: Army Corp; DEC for at least stream disturbance; a water taking permit from DEC;

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2 you've got the SPDES permit for sanitary and
3 stormwater; Orange County Health Department may
4 in fact have water and sanitary sewer approvals;
5 a flood plain development permit from the Town of
6 Newburgh; and dealing with CSX relative to
7 crossing the railroad tracks. So there will be
8 plenty of work for Chris to get all these items
9 taken care of. That in turn would also lead
10 into the stormwater management plan, meeting the
11 new regulations that we all have to deal with
12 now. We'll look forward to receiving a complete
13 submittal on that.

14 One minor comment is that Pat just
15 caught and didn't want to have not brought to
16 your attention, but just look at all the moorings
17 and diameters. Once we get more complete plans
18 we'll prepare a full detailed review.

19 CHAIRMAN EWASUTYN: Thank you.

20 Comments from Board Members?

21 MR. GALLI: No additional.

22 MR. MENNERICH: No.

23 CHAIRMAN EWASUTYN: Bryant Cocks,
24 Planning Consultant?

25 MR. COCKS: My first comment was just

1
2 to provide a project narrative. The response
3 comments were great, but just a full narrative of
4 what's going on and what you propose to do would
5 really be helpful.

6 I have a bunch of comments but the main
7 ones are just the bulk table needs to be revised
8 to show the actual dimensions.

9 Just some sidewalk connections between
10 the pool area and the townhomes and associated
11 parking.

12 Also, to just extend the sidewalk along
13 the bottom access road just because there's a
14 section of the marina, section 184-BJ, that
15 states the marina with accessory townhomes shall
16 provide a continuous public walkway along or
17 parallel to the shoreline of the site, and at
18 least one connecting walkway to a public street
19 or parking area. So just that bottom access with
20 the sidewalk along it, I think that would address
21 that comment.

22 MR. VIEBROCK: Along here?

23 MR. COCKS: It just goes to Oak Street.
24 That I think would address it.

25 The putting green, I'm a golfer, I'm

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2 all for that but there's a lot of maintenance
3 that goes along with that. I didn't know if the
4 HOA really wanted to get involved, if it got
5 diseased or got some type of fungus on it. Not a
6 normal landscape company is going to have the
7 right mowers and rollers to go in and keep that,
8 you know --

9 MR. VIEBROCK: I think at this point we
10 were just putting a putting green because it kind
11 of fits the community. As we move forward it
12 could change into bocci courts or something.

13 MR. COCKS: It's a lot of maintenance
14 to keep that up.

15 MR. GALLI: They make nice artificial
16 ones.

17 MR. COCKS: That would probably work.
18 That was it.

19 CHAIRMAN EWASUTYN: Ken Wersted,
20 Traffic Consultant?

21 MR. WERSTED: Through the previous
22 analyses there's a number of road improvements
23 identified, including I think resurfacing some of
24 Oak Street, some stop signs, improving the
25 crossing of the CSX rail. So as the plans move

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forward the details of those improvements will need to be included.

MR. VIEBROCK: Right. Which was part of the supplement EIS that was done for the zone change for this property.

MR. WERSTED: That was all we had.

MR. MENNERICH: Can I raise a question? The supplemental EIS, did that go to all the involved parties that were involved in the original, Army Corp, DEC, Scenic Hudson and all that?

MR. CARDAROPOLI: Yes. That went on for years and it went to everybody.

MR. MENNERICH: The supplement was for this?

MR. VIEBROCK: The supplemental was to evaluate the residential component because the original EIS was done for the restaurant.

MR. MENNERICH: Okay. It was never finalized?

MR. CARDAROPOLI: Yeah, the final was approved.

MR. VIEBROCK: That was what was -- that's what enabled the Town Board to change the

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zoning. That was the evaluation for the zoning overlays.

MR. MENNERICH: Did the Planning Board do that or did the Town Board?

MR. VIEBROCK: I wasn't involved in it.

MR. CARDAROPOLI: It was the Planning Board because it went on for a long time. People came to the meetings.

MR. VIEBROCK: It may have went through Town Board.

MR. CARDAROPOLI: I think the Planning Board.

MR. DONNELLY: I think it would be helpful if the Planning Board and the consultants could get a copy.

CHAIRMAN EWASUTYN: I remember the original meetings but I don't remember -- I may not have been on the Board. I remember the original ones because there was an attorney who was very outspoken on the original EIS. I may not have been part of the Board. I don't remember myself.

MR. MENNERICH: I may just be forgetting about the supplemental. I'll have to

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go back.

MR. VIEBROCK: Clough, Harbor had done the supplemental.

MR. GALLI: It was probably in the Town then.

CHAIRMAN EWASUTYN: You're right.

MR. MENNERICH: That was done within the last two or three years.

MR. CARDAROPOLI: No. That was done years ago. I'd say it was '06. Maybe five years ago.

MR. WERSTED: I have a document here called SEQRA comparison, Anchorage on the Hudson Findings Statement for proposed Anchorage at Balmville site development dated May 2006, prepared by Clough, Harbor Associates.

MR. CARDAROPOLI: That was for us.

CHAIRMAN EWASUTYN: The Town Board then; right? The Town Board is listed as lead agency?

MR. DONNELLY: That isn't the EIS. That sounds like a summary comparing a revised project with an existing EIS.

CHAIRMAN EWASUTYN: We'll have to

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research that.

Mike, I have a question for you. Can we grant conceptual approval for the Mid-Hudson Marina with the understanding that the concept before us right now isn't a permitted use?

MR. DONNELLY: I believe that the way your conceptual approval language reads, that it does not permit you to approve the project, therefore you could do it before you take SEQRA action, and arguably even if the use isn't currently proposed. My answer is yes.

CHAIRMAN EWASUTYN: Let's review this. We've had a lot of discussion tonight. You're going to be presenting -- you're going to be speaking with Mark Taylor as far as the three outstanding items with this project. Do you want to review those three with us one more time?

The applicant is also going to be coming forward with a descriptive submission letter as to what they are proposing.

Back to you, Mike.

MR. DONNELLY: For the Town agencies, I'm excluding all of the other outside agencies, the three specific components are the zone

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change, the open development area and site plan approval, all of which need review of some level under SEQRA.

CHAIRMAN EWASUTYN: Comments from our Board Members or our Consultants?

MR. EDSALL: No.

CHAIRMAN EWASUTYN: At this point then the action before us is to grant conceptual approval for the Mid-Hudson Marina.

Is that correct, Mike?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Then I'll move for that motion.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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MID-HUDSON MARINA

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MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

Thank you.

MR. CARDAROPOLI: Thank you very much.

MR. VIEBROCK: Should I send a
descriptive letter to you of the narrative?

CHAIRMAN EWASUTYN: Yes. I'd
appreciate it if you'd cc Supervisor Wayne Booth,
Mark Taylor and Jim Osborne.

(Time noted: 8:36 p.m.)

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

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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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23 DATED: August 25, 2011
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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

CNC ASSOCIATES/CAITLYN'S WAY
(2002-53)

168 Pressler Road
Section 6; Block 1; Lot 13
AR Zone

----- X

TWELVE-LOT SUBDIVISION

Date: July 21, 2011
Time: 8:36 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: CRAIG MARTI

----- X

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

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2 MR. PROFACI: The next item on
3 tonight's agenda is CNC Associates/Caitlyn's Way,
4 project number 2002-53. It's a thirteen-lot
5 subdivision located at 168 Pressler Road, Section
6 6; Block 1; Lot 13, and located in the AR Zone,
7 being represented by Craig Marti, Valdina
8 Consulting Engineers.

9 MR. MARTI: For the record, I'm Craig
10 Marti. The subdivision, when we last appeared
11 before the Board, received preliminary approval.
12 We subsequently made minor changes to a few of
13 the septic system alignments in response to joint
14 inspections and comments from the Orange County
15 Health Department, which has granted their
16 approval now based on the minor modifications to
17 the plan.

18 We received the comments basically for
19 review. It is a twelve-lot subdivision located
20 on Pressler Road. It's basically a cul-de-sac
21 arrangement with relatively large lots that have
22 been arranged to fit with the topography and to
23 build within the steep slopes -- in consideration
24 of the steep slopes which the planning consultant
25 has referenced and commented on in his review.

1
2 The other review comments from the
3 Engineering Consultant has identified the ongoing
4 process, which we're working through with the
5 Town Board, with regard to forming a drainage
6 district and working out the technical details of
7 the area around the retention pond which will
8 likely require a cyclone fence area which was not
9 shown on the preliminary approval. The details
10 of that I'm sure we can work out with the
11 consultants and the requirements of the Town
12 Board.

13 The other comments which we received in
14 regard to the Landscape Architect's comments, we
15 feel that -- for the most part I'm sure we could
16 find common ground on those requests. Some of the
17 comments regarding the street trees I believe
18 have previously been addressed on sheet 3
19 regarding the preservation of existing trees.
20 The roadway is built through a relatively heavily
21 wooded area. The desire is to preserve existing
22 trees rather than taking trees down and putting
23 in new street trees. Karen and I had worked
24 through a note pertaining to that at the
25 preliminary design phase.

1
2 The other comments that we received
3 from the Planning Consultant pertaining to not
4 being familiar with the prior review, I feel that
5 upon review of the notes we can provide and bring
6 you up -- some of those issues may have been
7 addressed, or at least considered, during the
8 preliminary phase. I'm quite confident that we
9 can find common ground with regard to the
10 outstanding planning comments.

11 The one comment that was brought up
12 pertained to the use of on-site stone during the
13 construction for the demarcation or improvement
14 of the driveway areas. Our client has indicated
15 he would rather not commit to that. We do feel
16 that the lots will be landscaped and buffered
17 accordingly. He's not necessarily in objection
18 to -- in fact, during the preliminary phase there
19 was a stonewall or stone entryway which had been
20 delineated and designed as part of the stonewall
21 consideration due to the preliminary review of
22 the project, but I think -- with the exception of
23 that, I think all of the outstanding items we can
24 certainly find common agreement and resolve
25 working with the consultants.

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If you have any questions at this time.

CHAIRMAN EWASUTYN: Questions from the Board Members. Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The applicant is opposed to using any of the stone as an entryway?

MR. MARTI: No. The comment pertained to utilizing stone as stonewalls at driveway locations. During the preliminary review of the project the applicant had agreed to building a stonewall entrance way to the roadway itself to delineate the subdivision. So that portion had been discussed at the preliminary phase. He's not sure at this time whether he's going to build the project himself or sell the lots as individual lots. He would rather not commit the buyer of the individual lots, upon completion of the road, to something which may not fit with the architectural style or the landscaping on his bigger house.

MR. MENNERICH: The stonewall to the entrance of the subdivision, is that still on --

MR. MARTI: Yes, that's still planned.

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2 In fact, the stormwater management facility was
3 designed to utilize existing stones to build a
4 vertical face around the stormwater management
5 pond so that there will be like a stonewall area
6 that is relatively adjacent to the stone entrance
7 way and the roadway. And then obviously the
8 cyclone fence now for safety purposes will be put
9 around the pond area in conjunction with Town
10 Board standards for the drainage district.

11 CHAIRMAN EWASUTYN: Is it a cyclone
12 fence or a split rail fence?

13 MR. MARTI: Split rail would be
14 preferable. The detail we'll have to work out
15 with the Town Board. If split rail is fine with
16 you, I'll certainly advance that.

17 CHAIRMAN EWASUTYN: What they do is put
18 the screening --

19 MR. MARTI: Right. I think that would
20 be preferable as well.

21 CHAIRMAN EWASUTYN: Joe Profaci?

22 MR. PROFACI: Craig, just a
23 clarification. This is a twelve-lot, not a
24 thirteen-lot subdivision?

25 MR. MARTI: Yes. As it's currently

1 drawn it's twelve lots. There was a -- I did
2 want to point that out. The estimate that was
3 brought up as far as recreation fees was
4 calculated with -- I believe that would be eleven
5 new lots. We would get credit for the existing
6 lot. We may need to revisit the calculation on
7 the recreation fees for eleven additional lots.
8

9 MR. BRYANT: This one --

10 MR. MARTI: It's a vacant lot
11 currently. It's a matter of the regulations and
12 whether we --

13 MR. COCKS: Unless it's an existing
14 home, every lot is counted.

15 MR. DONNELLY: Every new home.

16 MR. COCKS: If it's not an existing
17 home you don't get credit.

18 MR. MARTI: You don't get credit for
19 the existing lot? That would be up to the
20 interpretation of the code. I haven't read it
21 since I read your comments.

22 CHAIRMAN EWASUTYN: Tom Fogarty?

23 MR. FOGARTY: There's a mailbox that
24 says 168 Pressler. Is this piece of property up
25 in the back?

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2 MR. MARTI: No. This is located to the
3 south of that. 168 Pressler is the home address
4 of the applicant. This is significantly -- maybe
5 a quarter mile to the south of that on the right.
6 Ellen's Way -- it's directly across from Hawk's
7 Nest Lane, and the newer cul-de-sac is Ellen's
8 Way which was developed, you know, within the
9 last ten years. That was an O'Donnell
10 subdivision, I believe, which was the new road
11 for Ellen's Way. For reference to where this is
12 on Pressler Road, in those two areas.

13 MR. FOGARTY: I know where it is.

14 CHAIRMAN EWASUTYN: John Ward?

15 MR. WARD: My question was what type of
16 curbing is in there?

17 MR. MARTI: Actually, there's a no
18 curbing with a swale in conjunction with the
19 typical Town road section.

20 MR. WARD: This is an old project.
21 We're having developments with concrete curbs. I
22 was just wondering about that.

23 MR. MARTI: This is still proposed and
24 has been designed to meet the open channel swale
25 drainage pattern.

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MR. VALDINA: The road specs of the Town.

CHAIRMAN EWASUTYN: For the record, you are?

MR. VALDINA: Frank Valdina, Valdina Engineers.

CHAIRMAN EWASUTYN: Comments from our consultants. Jerry Canfield?

MR. CANFIELD: The only comment I have, John, is some of the proposed buildings are right against the building envelop. Maybe we could have the standard staking note.

Then also on lot 1, it's close. Lot 1 has three front yards because of the reverse on the road. Just verify that.

According to where you have, Craig, the building envelop, it looks like the proposed building sits outside of that envelop.

MR. MARTI: Actually, yeah. I believe the lot line or the building envelop line here is in error. It would actually be extended past the corner of the house in extension of the line that comes around the corner. That could be clarified.

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MR. CANFIELD: That's all I have, John.

CHAIRMAN EWASUTYN: Mark Edsall?

MR. EDSALL: Our office reviewed the plan and under comment 1 there are some suggestions for inclusion into any final approvals.

With regard to posting the--

CHAIRMAN EWASUTYN: Can you speak up?

MR. EDSALL: -- posting proper securities, duration of the stormwater drainage district and the offers of dedication and such as required for the Town road and right-of-ways.

Pat is indicating that he has reviewed the plans relative to the stormwater management requirements placed at the time of preliminary approval and that that compliance is fine.

We have no other comments.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Has the Town Board approved the road name?

MR. MARTI: Yes.

MR. COCKS: The Town of Newburgh Highway Department will need to approve the

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individual driveway location.

MR. MARTI: I believe that was reviewed at the time of preliminary approval as well.

MR. COCKS: One thing you definitely need before it can be approved is the approval from the Orange County Planning Department. The Orange County Planning Department, was that approval --

MR. MARTI: Yes. That was referred at the preliminary approval stage. They didn't complete SEQRA, I believe, without the comments from them.

MR. DONNELLY: Actually Craig, what I think happened is that preliminary approval was granted in that time period where the Town of Newburgh had entered an opt-out agreement. This wasn't required to be referred. As a result, we don't require them to be referred now.

MR. MARTI: Okay.

MR. COCKS: As you mentioned, going before the Town Board for the drainage district.

Just a signed wetlands delineation map with the final plans.

Since this is above ten lots, this will

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be subject to ARB approval.

CHAIRMAN EWASUTYN: Okay. Mike, can you give us a review of the conditions for final approval for the twelve-lot subdivision that stands?

MR. DONNELLY: At the time of preliminary approval you noted the two outside agency approvals were required, the Orange County Health Department for realty subdivision and the New York State DEC for stormwater. Are both of those approvals now obtained?

MR. MARTI: The DEC for stormwater will be a construction permit that will need to be put in with the notice of intent. The DEC is accepting prior approval and prior pipeline projects under the prior standards.

MR. DONNELLY: Okay. So a SPDES notice of intent at the time of construction.

We'll include a foundation staking requirement as noted by Jerry Canfield a few moments ago.

This approval is conditioned upon the Town Board creating a drainage district and upon acceptance and dedication of the retention and

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2 detention ponds and other structures to be
3 offered for dedication to the Town.

4 ARB requires when you have more than
5 ten lots, that a building permit application
6 shows that there will not be look alike, and if
7 a building permit shows a lot or a structure not
8 meeting the requirements of Section 185-59 E,
9 you'll have to return to this Board, otherwise
10 ARB will be handled by the Code Compliance
11 Department.

12 We'll need a sign-off letter from Karen
13 indicating that there has been a satisfactory
14 street tree plan submitted and reviewed by her.

15 MR. MARTI: We'll work on that.

16 MR. DONNELLY: That may include a
17 combination of new and existing.

18 Highway superintendent sign off on the
19 curb cuts. The landscape inspection fee. I
20 don't know the amount of the inspection from
21 Karen. I don't think she notes it in her letter.
22 We do need to have a sign-off letter from her.
23 Can I assume it's \$2,000 on the scale of the
24 project? Or I'll ask her to give it to me before
25 we sign the resolution.

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CHAIRMAN EWASUTYN: \$2,000 sounds reasonable. We'll make it conditioned upon Karen's memo.

MR. DONNELLY: We need a stormwater security and inspection fee, a Town road security and inspection fee. We will need offers of dedication, both for the new road as well as for the new land along Pressler Road to be offered for dedication. Notes to be reviewed by Mark Taylor.

I did look at the code. The requirement for parkland fees is on a per lot basis, not new lot or anything of the kind. It's twelve lots, it's \$2,000 each, so the total figure will be \$24,000.

CHAIRMAN EWASUTYN: Any additional comments from our Consultants?

(No response.)

CHAIRMAN EWASUTYN: From Board Members?

(No response.)

CHAIRMAN EWASUTYN: Having heard the conditions for approval for the twelve-lot subdivision presented by our Attorney, Mike Donnelly, I'd move to that motion.

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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 favorable vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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

(Time noted: 8:52 p.m.)

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

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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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19 _____
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23 DATED: August 25, 2011
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25

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

----- X
In the Matter of

MAGYAR/BUDGET TRUCK RENTAL
(2011-04)

5465 Route 9W
Section 9; Block 1; Lot 3
B Zone

----- X

CONCEPTUAL SITE PLAN

Date: July 21, 2011
Time: 8:52 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 PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: FRANK VALDINA

----- X

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

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2 MR. PROFACI: The final item of
3 business tonight is Magyar/Budget Truck Rental,
4 project number 2011-04. It's a conceptual site
5 plan located at 5465 Route 9W, Section 9;
6 Block 1; Lot 3 in a B Zone. It's being
7 represented by Frank Valdina of Valdina
8 Consulting Engineers.

9 MR. VALDINA: Thank you. The revised
10 plans have been submitted to the Planning Board
11 Members and the Consultants. The basic revisions
12 from our previous submittal is the parking has
13 been located to the north side of the existing
14 building with the employee parking in the back.

15 We've covered basically all the
16 comments that have been presented previously.

17 The main outstanding item, as far as I
18 can determine, has to do with the landscaping in
19 the front, which we know is still an open issue.
20 We had indicated we had not finalized that yet.
21 I had presented to Karen basically what our
22 intent was as far as the landscaping. Basically
23 it's to match the existing site just to the
24 south. I have some photos of that if the Board
25 is interested in seeing what that site looks

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2 like. Like I said, it was to match that. We'll
3 develop a full plan in conjunction with Karen as
4 far as meeting the requirements.

5 One of the comments she indicated is
6 the parking shifted. We eliminated the
7 stonewall, which we're greatly in favor of as you
8 know. We still intend to put landscaping in the
9 front to screen the parking.

10 The other comment pertaining to the
11 buffer, that's been resolved. The buffer is a
12 thirty-foot buffer, based on the current Town
13 Code, to the west, and that was basically the
14 buffer is required because it was a rezoning of
15 the parcel to the rear to residential which was
16 previously a business. There's an existing
17 residence to the north, so we're showing a
18 fifteen-foot buffer which is a side yard buffer
19 requirement to that area.

20 The comment pertaining to the water
21 service, we realize that will require Town Board
22 approval. It is also the intent and we're
23 waiting to get basic conceptual approval or
24 preliminary approval, if that's possible, prior
25 to going to the fire bureau. It's not to

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2 eliminate sprinklers but to eliminate the
3 necessity of having to jack under Route 9W, jack
4 under the existing sixty-inch culvert to get to
5 the building. It's a very difficult process
6 because you're dealing with groundwater and
7 everything else in there.

8 There was a question raised as far as
9 sight distance. This location -- I've had
10 discussions with DOT, Zibbie from DOT, and
11 there's no objection to the location of the
12 access point. The sight distance is pretty equal
13 to the north and the south from this access
14 point. Since this is a separate parcel, it's
15 entitled to access to Route 9W under their
16 regulations. The access to the adjoining parcel
17 to the south is more of a convenience. It's not
18 anticipated there would have to be much traffic
19 through that area.

20 The curbing has been added, as
21 requested by the Planning Board, around the
22 parking areas and so on.

23 I've done some preliminary on the
24 stormwater management which I will discuss with
25 Pat Hines. The first flush, the anticipated flow

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2 after development appears to be less than what we
3 have there right now because of what the ground
4 materials are on that present site and the amount
5 that is utilized.

6 There are notes on the plans pertaining
7 to if the adjoining parcel, which is owned by the
8 same parties, is ever leased or sold, that there
9 will be easement agreements pertaining not only
10 to access but also to water line maintenance
11 provisions.

12 One of problems we have with
13 landscaping based on some of Karen's comments
14 about planting trees in the front, not only do we
15 have the right-of-way issue, you can't plant the
16 trees in the right-of-way, but there's also a
17 twenty-foot drainage easement along the front of
18 the property which we would not be able to plant
19 trees in. We are proposing that there will be a
20 series of bushes and other foliage along the
21 front to block off not only the view from the
22 road but also dress it up to make it similar to
23 the parcel to the south.

24 CHAIRMAN EWASUTYN: I think, Frank, in
25 reference to Karen's comment, present her with a

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2 landscape plan. She'll review the landscape plan
3 with you so we don't have to concern yourself
4 with that.

5 As far as granting you preliminary
6 approval at this time, I think it would be
7 reasonable to grant you conceptual approval, but
8 until Pat Hines signs off on the SWPPP and the
9 stormwater, I don't think the Board ordinarily
10 would grant preliminary approval because that
11 would be, you know -- that would be just --

12 MR. VALDINA: The reason I was asking
13 that -- actually, two reasons. According to your
14 Planner, there's no SEQRA involved with this
15 project of this scope. Secondly, in going to the
16 fire bureau I want something firmer than saying
17 the concept is this.

18 CHAIRMAN EWASUTYN: How soon before you
19 would have your stormwater plans?

20 MR. VALDINA: Possibly two weeks.

21 CHAIRMAN EWASUTYN: I think it's not
22 unreasonable to see that and then we can move for
23 that motion because you'll come back one more
24 time.

25 Mark Edsall has some comments also.

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Mark.

MR. EDSALL: Our office reviewed the plan. The first comment listed confirms a discussion on the need for a SWPPP submitted for the project, and the SWPPP must be in conformance with Town and DEC requirements.

Relative to the water supply, Pat is indicating that it would require Town Board approval. I'll just add to that a concern always for shared water services, and it would behoove the Board to verify with both the Town water superintendent and Orange County Health that there's no prohibition to the shared service arrangement.

For the access issue between lots, there will need to be cross easements which would be prepared and reviewed by the consultants, including the attorney. DOT access was discussed, and that obviously the Board should be looking for written feedback from the permit engineer on the acceptability of the access.

And last related to the water is they're indicating the need to go to the fire prevention bureau for a waiver on the sprinkler

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2 system. If that isn't obtained, that further
3 complicates the arrangements for the water. So
4 that --

5 CHAIRMAN EWASUTYN: Give an example.
6 You gave us an example of a project in New
7 Windsor that Frank maybe should understand why
8 you think it may or may not be approved by the
9 Health Department.

10 MR. EDSALL: I like to confer with them
11 because strangely sometimes during one period of
12 time you may get one answer and it might get
13 evolved into something else as their review
14 philosophy changes. There was a project I
15 performed a review on which involved a single
16 service off of the town main that then in turn
17 split to service two lots or two buildings on the
18 same lot owned by the same person but two
19 different leases. Orange County Department of
20 Health interpreted that that in fact was a water
21 main extension and made -- set the requirement
22 that there actually be a water main application
23 for that portion that was shared, it fell under
24 their review, which kind of baffled us. Beyond
25 the administrative review requirements, my

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2 concern also becomes in shutting down the
3 maintenance. Frank indicated there would be a
4 maintenance agreement. That's a good start but
5 there is concern about shutdowns. If the lots
6 are sold, now you have two property owners to
7 deal with. Just cautioning you that you should
8 make sure we don't approve a plan that in fact
9 has concerns from other agencies.

10 CHAIRMAN EWASUTYN: Comments?

11 MR. GALLI: Who follows up on that? Do
12 we follow up on that or do they follow up on
13 that? Is that something --

14 CHAIRMAN EWASUTYN: Pat Hines does.

15 MR. EDSALL: I'll make a note to Pat to
16 make sure that that's coordinated.

17 MR. VALDINA: Once it gets Town Board
18 approval, would this Board be involved?

19 MR. GALLI: I'm talking about Orange
20 County Health Department. How does that get
21 followed up?

22 MR. VALDINA: There are others similar
23 to this in the Town. Be that as it may.

24 CHAIRMAN EWASUTYN: Well, you know, I
25 think there's a fine line here. Do we work with

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2 the Town Board, do you work with the Town Board,
3 and that seems to be the approach you want to
4 take. Mark Taylor is -- again Frank, I'm not
5 looking to split hairs with you. Mark Taylor is
6 suggesting, from prior experience, that the Board
7 of Health should be involved. So we as a Board
8 say do we want to be ignorant of a recommendation
9 that's coming from a consultant or do we want to
10 act on that. That's how I interpret it. So I'll
11 leave it up to the Board Members, realizing that
12 some people prefer working with those people in
13 the Town who they are familiar with, and that
14 sometimes works. We, as a Board -- I'll leave it
15 up to the Board, Frank. I don't want to split
16 hairs with you.

17 MR. VALDINA: I understand that.

18 CHAIRMAN EWASUTYN: You understand
19 exactly what I'm saying.

20 MR. GALLI: I don't want a problem with
21 the Orange County Department of Health. If it
22 has to be followed up on, it should be followed
23 up on. If the Town Board doesn't -- if it has to
24 be followed up on, that's up to the Town Board.
25 That's going to lay on their lap.

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CHAIRMAN EWASUTYN: I'll turn to Ken Mennerich. I understand what you're saying.

MR. MENNERICH: I agree with what Frank says regarding the Town Board. If it's not handled that way, and to me it's more of a technical item and it should be the engineers dealing with the Board of Health, or whoever they have to deal with.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: The same thing. I feel the same way. If the Town Board has the ability or doesn't see the need for the Orange County Department, then fine, we'll proceed in that direction, otherwise we do.

MR. FOGARTY: I just want the question answered, you know. It is a technical question. As a layperson here I want to be comfortable with the answer. I don't know, it just doesn't seem right, you'd want to go outside of the Orange County Health Department and not want them to have input. Why would you want to keep them out of this picture? It's a complicated issue. I would think you would want as much input as you could possibly get.

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2 MR. WARD: I'm agreeing with Tom. To
3 me, we're here for the residents and we want to
4 make sure it's covered, all the bases. There's
5 nothing to hide.

6 MR. VALDINA: All right. Two comments
7 if I may. One is the maintenance agreement
8 involves access into our service lateral. It has
9 been discussed and the appropriate notes have
10 been added to the plans as we previously
11 discussed. Since this property -- adjoining
12 property is owned by the same party, they can't
13 give easements to themselves. There are
14 applicable notes on the plans covering the sale
15 and/or lease, then those agreements would have to
16 be developed.

17 MR. DONNELLY: Frank, you're
18 technically correct, but it's commonplace in this
19 field to then call it a declaration so that
20 everybody is on notice at the time of the
21 conveyance that there would be an easement
22 created, otherwise there's no ability to stop you
23 from conveying it but not having put the easement
24 in place. We can talk about it later.

25 MR. VALDINA: I'm under the impression

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2 that based on our last conversation we had put
3 appropriate notes on the plan, that that covered
4 that scenario. If there's something else that
5 has to be done legally, I'm not an attorney so
6 I'm not sure --

7 MR. DONNELLY: It's a simple document
8 that can be recorded later. It's not a problem.

9 MR. VALDINA: As far as the Health
10 Department is concerned, short of coming out of
11 the blue, because Pat has reviewed these and we
12 have his comments, and he did approach that point
13 before. There are other situations in the Town
14 where they have allowed this type of connection.
15 It does require Town Board action. I've already
16 discussed it with the Town Engineer. He advised
17 me that it's up to the Town Board whether they'll
18 accept or reject. That's a process that has to be
19 followed, just like with the sprinklers. The
20 intent is to sprinkler the building. The
21 variance we're requesting is connecting into the
22 main that's on the east side of Route 9W, and
23 that takes another process.

24 CHAIRMAN EWASUTYN: Bryant Cocks,
25 Planning Consultant?

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2 MR. COCKS: Yes. As Mr. Valdina
3 mentioned, this is a type 2 action under SEQRA
4 because it's below 4,000 square feet, so no SEQRA
5 determination will be required. The plans do
6 need to be referred to Orange County Planning
7 Department since it's on Route 9W. So you need
8 thirty days before you could act on the project
9 anyway.

10 My only other comments were regarding
11 the ARB drawings and the signage chart detailing
12 what signage will be on the building, and if
13 there will be a pylon sign.

14 CHAIRMAN EWASUTYN: Ken Wersted,
15 Traffic Consultant?

16 MR. WERSTED: We had two comments on
17 the plans, namely the proposed entrance. Being
18 that it's a separate parcel, DOT may entitle it
19 to it's own entrance. However, I disagree that
20 it needs a separate entrance, basically because
21 the existing business that's proposed to go in
22 there already operates out of the adjacent
23 parcel, so those trucks and rentals are occurring
24 utilizing the two existing driveways for the gas
25 station and service center. Further, if that

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2 business were to move onto this site, they
3 certainly would be able to be accommodated by
4 those existing driveways. In addition to vehicles
5 being returned, they are likely to already stop
6 at the gas station, refill their fuel tanks
7 before dropping off the rental vehicle. In
8 respect to that I think it's, you know, better
9 for the traffic out on Route 9W to have those
10 existing entrances rather than introduce, you
11 know, a third entrance in that area. That being
12 said, it is up to DOT's approval. Obviously the
13 driveway is in their jurisdiction and subject to
14 their review.

15 Relative to sight distance, there are
16 different standards for vehicles and -- larger
17 vehicles such as single-unit trucks and tractor
18 trailers. The ASHTO guidelines for sight
19 distances for box trucks at a 55 mile-an-hour
20 speed is 690 feet to 770 feet, basically looking
21 left and right from a particular driveway. So
22 it's noted that the sight distances seek 500 feet
23 as noted in the comment responses, however the
24 standard distances are a couple hundred feet
25 longer than that. I don't have too much of a

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2 concern looking to the north, but I know looking
3 to the south, Route 9W does start to curve. It
4 would appear that the sight line that you would
5 be looking through is across the frontage of some
6 of the parcels. So that's where my concern comes
7 from in terms of looking across the front yard of
8 other sites along Route 9W and should there be
9 something in the way there that would restrict
10 the sight distance.

11 MR. VALDINA: I think you're referring
12 to the present landscaping which is off the State
13 right-of-way. It's off the shoulder of the road.
14 The shoulder is ten feet wide at that point.
15 Where a vehicle pulls out is not going to be more
16 than ten feet back. The line of sight will not
17 be in conflict with the vegetation that's there.

18 MR. WERSTED: That may be true of the
19 area immediately adjacent to the driveway, but
20 when you start to look down -- 770 feet down the
21 road, depending on the curvature of the road, you
22 could be looking at a sight line that is 20 feet
23 behind the right-of-way. That's the --

24 MR. VALDINA: There's no landscaping to
25 the south of the adjoining site. That's just

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asphalt.

MR. WERSTED: Okay.

MR. VALDINA: That's just asphalt.
There's two adjoining properties. The asphalt parking lot is in the front.

MR. WERSTED: Okay. So those were the only two comments that I had.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to grant conceptual approval for the Magyar/Budget Truck Rental agency and circulate to the Orange County Planning Department.

MR. GALLI: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

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(Time noted: 9:11 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: August 25, 2011

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

----- X
In the Matter of

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION
DELAWARE AQUEDUCT BYPASS TUNNEL
DISCUSSION BY MICHAEL DONNELLY, ESQ.

(2011-15)

----- X

BOARD BUSINESS

Date: July 21, 2011
Time: 9:11 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 PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

----- X

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

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NYC DEP

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MR. PROFACI: We have two items of Board Business tonight. Discussion by Mike Donnelly, the New York City Department of Environmental Protection, Delaware Aqueduct Bypass Tunnel, project 2011-15, regarding the scoping outline and site plan.

MR. DONNELLY: There's two items I wanted to speak about on this rather interesting project briefly. One is SEQRA. I say that because you're used to being the lead agency where you do the scoping, you direct the adequacy of the DEIS and issue the FEIS and Findings. Here you're on the other end of that stick. You are an involved agency in a project where the primary approval is going to be granted by the DEP to itself. As you heard from the representatives of the DEP that came to your last meeting, they are solicitous of your input into the scoping outline so they can get to work on the EIS. I think they want to close that out at the end of this month. They did have some comment from Town Board Members, from Jim Osborne. They certainly heard some of your concerns. I think if there's anything else you

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want conveyed, you should ask your consultants to convey that because I think we're on a fairly short timeframe for that.

As we go down the road, the process is not a whole lot different when the applicant is also the lead agency. I think they had a proposed timeline where their EIS was going to come out, I don't remember whether it was at the end of the year, the beginning of the next year. I think they put forth some of those materials. Of course there will be other public hearings and it will run the normal course. When you get to the end of the process, as an involved agency you have the opportunity to issue your own Findings Statement. You remember when you had been the lead agency, you do an FEIS. Take for instance The Marketplace, you issued a rather detailed Findings Statement. The lead agency must issue a Findings Statement. Involved agencies, if they're not satisfied that all of the findings that are necessary for their approvals are included, can issue their own Findings Statement. That takes care of the SEQRA issue.

The second one really is what is before

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you and this concept that we talked about briefly last time of intergovernmental immunity. Quickly, it appears to me that you will need to review both the site plan, because there are structures proposed, and the particular use. As I understand what they're proposing, the likely need for a clearing and grading permit before that site plan is issued. You may remember that normally if a project gets site plan approval and there's clearing and grading proposed as part of that approval, they don't need a separate clearing and grading permit. If someone wants to do clearing and grading before the site plan approval is granted, they can get a clearing and grading permit at a certain level from the code compliance department. When certain thresholds are exceeded, then they would need to come to the Planning Board. Certainly those thresholds are exceeded here. I think, if I understand their application correctly, they may well want to begin clearing and grading before they conclude their site plan review because that's still in design and formulation, and that is something that is permitted under your code, and that would

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2 have to come through Jerry's office to you.

3 The concept of intergovernmental
4 immunity, as I said last time, very few agencies
5 of government are, under the current state of the
6 law in New York, exempt from the requirement of
7 local planning board approval. The Federal
8 Government is exempt, the State is exempt, I
9 believe the MTA and Urban Development
10 Corporations are exempt from approval. Everyone
11 else falls into this balancing of the public
12 interest test. After your last meeting I got an
13 e-mail from Mark Taylor and he asked whether or
14 not the DEP had asked you to make a determination
15 that they were exempt from site plan approval
16 under the balancing of the public interest test,
17 and you may remember I asked them specifically
18 whether or not they were agreeing to go under
19 site plan approval. I think I was asking it in
20 the opposite way rather than suggest to them that
21 they might want to do so. My recollection of
22 their answer was emphatically they wanted to
23 submit to the jurisdiction of both the east and
24 the west coast municipalities on the Hudson River
25 to make sure they had adequately taken into

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consideration the concerns of both of those municipalities. I think in the discussions that ensued, they will, at the appropriate time, submit a formal application. I think they submitted a partial escrow now. They'll need to submit application fees. I think, unless something dramatically changes, they want to have free and open conversations and concerns.

I think the only thing that they asked for, John, in the letter to you was a point person so they knew how to work procedurally.

CHAIRMAN EWASUTYN: Let me summarize it. I've had dialogue with them. On our second meeting in August they're going to be coming forward to discuss the site plan. In reading the scoping outline, the approval they note in the scoping outline is a clearing and grading permit. So Mike is correct, the first action that I'll look for will be a clearing and grading permit. As I discussed with Chris, at the first meeting, which will be in August, the Board will then move for a motion, if they so desire, to set this up for a consultants' workshop. As I said to Chris, it's up to the Board whether they want to have

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2 two consecutive work sessions before coming back
3 to the Planning Board. We have approved such a
4 format in the case of The Marketplace, but I
5 wasn't speaking for the Board. Sometime between
6 now and the second meeting in August they'll be
7 making an application for a site plan and they'll
8 be establishing the necessary application fees
9 and the necessary escrow fees. That's really the
10 history.

11 As far as who the point person is,
12 Bryant will eventually be the point person on
13 this. What I'm initially doing, as I say to all
14 applicants, my job is a waiter, is to help you
15 set up the menu so we can present that to
16 everyone before us, and that's what the due
17 diligence has been on.

18 So I ask you now, has anyone here read
19 the scoping outline? I've read it, I think it's
20 a very thorough, very complete document. In my
21 opinion I would just, you know, send a letter off
22 asking -- you know, just advising them as such.
23 I mean they talk about, and Mike will present
24 that to you, the difference between SEQRA as we
25 know with an S and as the City knows it with a C.

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2 What they say in that outline is if the Town has
3 anything that's more stringent than their code,
4 they'll abide by that. It's a beautiful,
5 beautiful, beautiful document to read. It's a
6 beautiful project to learn and grow with. When
7 they talk about the approximate 2,000 acres that
8 captures approximately 580 billion gallons of
9 water that the State -- consumption of
10 approximately 1.1 billion gallons of water. I
11 mean if you just read it. If you like
12 information, it's full of information.

13 Bryant, I believe you read it.

14 MR. COCKS: I did.

15 CHAIRMAN EWASUTYN: Your thoughts on
16 it.

17 MR. COCKS: It's very obvious that a
18 lot people a lot smarter than me wrote the thing.
19 You just imagine how many layers this thing went
20 through. The initial person who wrote it, there
21 must have been a hundred people who read through
22 this and made sure every I was dotted and every T
23 was crossed. It's a fifty-page document which is
24 basically just a table of contents for what the
25 real document is going to be. This thing is

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going to be this high off the table. It's really unbelievable the scope of the work that they're doing and the timelines they have laid out for everything. They seem like they know that they can do this. I don't know if they can but it seems like they have their act together with what they want to do.

MR. FOGARTY: It was readable. It was readable for an average guy. Reading this stuff, you know, you understood most of it. You can tell a lot of thought went into it. They must have hundreds of people working on this project. So it is going to be very interesting to see how it develops.

CHAIRMAN EWASUTYN: Do we just have Bryant write a letter saying we're in favor of it?

MR. DONNELLY: We have no additional recommendations to add to the scoping outline.

CHAIRMAN EWASUTYN: Say something like I realize there was a typo on page 36. Maybe that will catch their attention.

It was interesting just to learn the Delaware Aqueduct supplies fifty percent of the

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water. The Catskill is forty percent. I think that's fascinating when they have to shutdown the system, how they're going to be pulling water from that. It's a great document.

Bryant, do you want to do a summary letter on behalf of the Board?

MR. COCKS: Absolutely. I'll just e-mail Pat and see if he had anything. I know he was going to read through it, too. Just to see if he had a comment or two.

CHAIRMAN EWASUTYN: Even their outline, Ken, on traffic is so well, well prepared. They still don't know whether they're going to use barges, or rails, or trucks. It seems like they are heading to trucks. I think just the fact they're going to be pulling water out of the tunnel and then they will be cleaning it on site, and then they're going to have to run piping throughout some point of discharge back into the river. I mean it's just -- it's great. True, it's fun to read, if you believe that.

(Time noted: 9:24 p.m.)

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

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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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23 DATED: August 25, 2011
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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

WPA ACQUISITIONS

Scheduling the Project for a Consultants' Work
Session on July 26, 2011

(2011-15)

----- X

BOARD BUSINESS

Date: July 21, 2011
Time: 9:24 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 PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
MARK J. EDSALL
JERRY CANFIELD
KENNETH WERSTED

----- X

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

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2 MR. PROFACI: The last item of Board
3 Business is WPA Acquisitions, 1997-13, formerly
4 known as Gidneytown Plaza. The Planning Board
5 will discuss setting the project up for a
6 consultants' work session on July 26, 2011.

7 MR. GALLI: So moved.

8 CHAIRMAN EWASUTYN: What I'd like to
9 do, before we move for that motion, I'd like to
10 also make a condition that no later than 3:00 on
11 Monday the applicant has to bring to the building
12 department office a check for \$3,000 to be placed
13 in the escrow account to cover the reviews.

14 Jerry, do you want to add anything to
15 this?

16 MR. CANFIELD: Just to bring everybody
17 up to speed, this is kind of a unique request.
18 We've discussed this project. I think everybody
19 is aware of what's going on down there. We have
20 issued a stop work order to kind of cease the
21 site work that's going on. I kind of feel and
22 request that the Board give this special
23 consideration to go this route, to have the
24 applicant come before a consultants' work session
25 to kind of help work out the issues prior to it

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2 coming before the Board. I think it will be more
3 constructive to go this way given the history and
4 the litigation that's been overshadowing this
5 project.

6 John did indicate what the escrow fee
7 would be should the Board choose to go this
8 route. I did convey that to the applicant's
9 representative. He did e-mail me back tonight
10 and had asked when did we need the fee. I
11 e-mailed him back and said as soon as possible
12 and that I will forward that information to the
13 Board tonight. So he is planning on attending
14 the meeting, which will be Tuesday I believe,
15 1:00. If the Board chooses to approve that
16 request and with that condition, I agree
17 wholeheartedly.

18 CHAIRMAN EWASUTYN: Any further
19 discussion?

20 (No response.)

21 CHAIRMAN EWASUTYN: Then I'll move for
22 a motion to set this up -- what's the date,
23 Bryant?

24 MR. COCKS: July 26th.

25 CHAIRMAN EWASUTYN: July 26th for a

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2 consultants' work session at 1:00 subject to the
3 applicant depositing or delivering a check to the
4 building department's office for \$3,000 to
5 establish an escrow account.

6 MR. GALLI: So moved.

7 MR. MENNERICH: Second.

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

12 MR. GALLI: Aye.

13 MR. MENNERICH: Aye.

14 MR. PROFACI: Aye.

15 MR. FOGARTY: Aye.

16 MR. WARD: Aye.

17 CHAIRMAN EWASUTYN: Myself. So
18 carried.

19 I'll move for a motion to close the
20 Planning Board meeting of the 21st of July.

21 MR. GALLI: So moved.

22 MR. WARD: Second.

23 CHAIRMAN EWASUTYN: I have a motion by
24 Frank Galli and a second by John Ward. I'll ask
25 for a roll call vote starting with Frank Galli.

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WPA ACQUISITIONS

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

(Time noted: 9:28 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: August 25, 2011