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

----- X

In the Matter of

ORCHARD HILLS
(2003-41)

Route 9W and Oak Street
Section 9; Block 1; Lot 78.1
R-3 Zone

----- X

AMENDED FINDINGS STATEMENT
ARCHITECTURAL REVIEW BOARD

Date: November 5, 2009
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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ORCHARD HILLS

MR. BROWNE: Good evening ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of November 5, 2009.

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

Aye.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Here.

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on our business that we have before us including SEQRA determinations as well as code and planning details. I'd ask them to introduce themselves now.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

MR. HINES: Pat Hines with McGoey,

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ORCHARD HILLS

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Hauser & Edsall, Consulting Engineers.

MR. COCKS: Bryant Cocks, Garling Associates.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

MR. BROWNE: At this time I would like to turn the meeting over to Joe Profaci.

MR. PROFACI: Join us in the Pledge to the flag.

(Pledge of Allegiance.)

MR. PROFACI: Please switch off your cell phones. Thank you.

MR. BROWNE: The first item we have of business this evening is Orchard Hills. It's an Amended Findings Statement and ARB being represented by Ross Winglovitz of Engineering Properties.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties. We are here on behalf of the Orchard Hills site plan for ARB review and an Amended Findings Statement draft which was submitted a few weeks ago.

These plans here, they're by Jay Dissing of Morey Associates. He's the architect.

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ORCHARD HILLS

Also here this evening is Jerry McDonald, the builder. If there's any questions, he's available to answer them.

These are, I think, similar to what we've seen in the past. We had made a presentation I think almost a year-and-a-half ago. There have been some amendments to these based on the comments from the consultants.

We're here tonight to hear any comments you may have and to answer any questions we can. If you would like, Jay can make a presentation.

CHAIRMAN EWASUTYN: Sure. Why not.

MR. DISSING: Good evening. As Ross mentioned, I'm Jay Dissing with Morey Associates, architects. I'd be happy to walk you through these drawings a little bit.

These are the sixteen to twenty-unit apartment buildings. There's a total of --

CHAIRMAN EWASUTYN: Can you address it based upon the phase that they would be put in so we could -- what you're showing us now would be part of what?

MR. WINGLOVITZ: Those are the apartment buildings.

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ORCHARD HILLS

CHAIRMAN EWASUTYN: Thank you.

MR. DISSING: So these buildings are two-story buildings, some of them have a third-story walkout to the rear. That's the twenty-unit buildings. The base of the buildings for the most part is clad in a stone veneer, and the upper portions of the building are a mixture of vinyl lap siding and some shakes and some simulated siding, and it can be -- you can see that some accents in the gable ends and some of the vertical areas we used the shakes to accent.

We have a type of an accent color we mixed in. Some of the little entry roofs and some of the shutters are a burgundy or foredoe color, and then it's a standard architectural asphalt shingle roof.

CHAIRMAN EWASUTYN: From my understanding they're modular units?

MR. DISSING: They are. They'll be modular constructed.

CHAIRMAN EWASUTYN: Do you want to go through the other styles that you have?

MR. DISSING: Sure. The townhomes --

MR. WINGLOVITZ: Towards the rear of

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ORCHARD HILLS

the site.

MR. DISSING: Yup. There's two different designs of the townhomes. Some are two-bedroom or three-bedroom units and they're similar in style of cladding with some stone veneer on the base of the buildings, and the upper portions are again vinyl with your lap siding or shake siding.

We've prepared three different color schemes that will be kind of intermingled through the neighborhood just to add some interest and keep it from being a monotonous looking neighborhood. So the one scheme is kind of a neutral tan color, and we did some yellows, and then as you can see kind of a green and burgundy scheme. Again, they all have some asphalt architectural shingles.

MR. WINGLOVITZ: What Jay addressed in some of the comments were stone on the foundations, and specifically there was a concern regarding the stone at the walkout. This is a dual access for the two units which will be a raised concrete and stone veneer around the bottom of that for aesthetics, and wrapped around

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ORCHARD HILLS

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the building it also proposes color to the foundations as well to help minimize any visual impacts.

MR. DISSING: Either matching the siding or blending with the stone veneer.

CHAIRMAN EWASUTYN: Any questions from Board Members?

MR. PROFACI: Are the roofs all the same color?

MR. DISSING: No actually. They're slightly different colors. The roof is matched in or made to blend in with the color of the siding or some of the accent colors on the building. They're all a little different. I wanted to kind of give it a little variety.

The one other building is the clubhouse structure. It's similar colors and materials, stone veneer at the base, vinyl and architectural roof shingles.

Any questions?

CHAIRMAN EWASUTYN: Questions from the Board Members. Cliff?

MR. BROWNE: I just happen to think looking at this, gutters and downspouts, what are

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ORCHARD HILLS

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you doing with that?

MR. DISSING: They're aluminum gutters and downspouts. They get piped underground.

MR. BROWNE: What color?

MR. DISSING: Most of the trim on the building is white, so it's that same color to blend in with the trim.

MR. BROWNE: Will they be on the sides or the front?

MR. DISSING: For the most part, wherever we can put them on the sides, that's where they'll be. Some of the little entry roofs and what not, obviously they'll have to be in the front.

MR. BROWNE: We'll be seeing actually white vertical stripes where the downspouts are?

MR. DISSING: Yeah. Well the corner boards are generally white in color. They'll be wrapped around to that, so they should blend in there.

MR. BROWNE: Okay. Thank you.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I think the styles are very interesting, the various roof lines and

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ORCHARD HILLS

different elevations and the different features that you have, and the color combinations. I think it's good.

MR. DISSING: Thank you.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: Garage doors, are they the same color as the siding?

MR. DISSING: The garage doors will either be the same color as the siding or we may pick up the trim color for those depending on where they are. For the most part they'll be a neutral color.

MR. PROFACI: Thank you.

CHAIRMAN EWASUTYN: Tom?

MR. FOGARTY: I just had one question. You mentioned the stormwater runoff. Where is that going? It's going under -- it's piped underground?

MR. DISSING: Yeah, piped underground.

MR. FOGARTY: I like the project. I like the color variations. Let's get a shovel in the ground and let's go.

MR. DISSING: Thank you.

CHAIRMAN EWASUTYN: John?

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ORCHARD HILLS

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MR. WARD: At work session we saw one of the pictures where the steps are coming out, the little white strip there. Is that concrete coming out or is that just --

MR. DISSING: It's uphill.

MR. WARD: You'll see it right there. Do you see where it's like the steps and there's a white -- right there.

MR. DISSING: I think maybe the white you're seeing is the railing. There will be -- it's either -- I don't recall if it's a PVC or a vinyl railing.

MR. WARD: We didn't know what it was.

MR. DISSING: I think that's it. The railings and the porch coves, those will be white.

MR. WARD: Very good.

MS. ARENT: There's a white strip that follows around the porch and the first step. It looks like it's concrete. It looks like it's not stone.

MR. DISSING: The porch floor is concrete as are the steps, then you'll see a reveal of about six inches that wraps around and

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ORCHARD HILLS

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the stone will wrap underneath that.

MR. WINGLOVITZ: There was a question about the condenser units.

MR. DISSING: Condenser units are all designed to be in the back of the buildings so it will be out of view of the road. All the buildings.

MR. DONNELLY: They'll need to be on the site plan as well.

MR. WINGLOVITZ: Condenser units?

MR. DONNELLY: They're ground mounted?

MR. WINGLOVITZ: Yeah.

MR. DISSING: They're small units.

MS. ARENT: Can they just write a note that they'll all be in the rear of the building?

MR. DONNELLY: As long as they're described in some fashion. We do have a standard condition.

MR. WINGLOVITZ: Show them on the typical --

MS. ARENT: Yeah, show them on the typical. That's perfect. They have a typical.

CHAIRMAN EWASUTYN: Conversation, fair market value for rentals on the units

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ORCHARD HILLS

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approximately?

MR. WEINBERG: Fair market value on the rentals?

CHAIRMAN EWASUTYN: What would you be asking for a two bedroom, three bedroom, do you know?

MR. WEINBERG: I think that the two bedrooms were \$1,600 to \$1,900, \$1,600 to \$1,800, and the townhouses were \$1,900 to \$2,300.

CHAIRMAN EWASUTYN: And you think the market can support that?

MR. O'DONNELL: Hopefully by the time we're done with this project it will be --

CHAIRMAN EWASUTYN: You build similar projects in Dutchess County?

MR. O'DONNELL: No, but I'm working my way on these projects on this side of the river. I've got a couple in the Wappingers area that we're getting ready to go to.

CHAIRMAN EWASUTYN: Again your name is?

MR. O'DONNELL: John O'Donnell.

CHAIRMAN EWASUTYN: O'Donnell?

MR. O'DONNELL: Yup.

CHAIRMAN EWASUTYN: Where in Wappingers

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ORCHARD HILLS

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are the projects?

MR. O'DONNELL: There's one on 9D and there's another project actually on this side of the river in the Town of Lloyd, and there's one in Highland on 299 we're getting final in another thirty days.

CHAIRMAN EWASUTYN: Interesting.

MR. WEINBERG: In construction is which one? In Highland?

MR. O'DONNELL: Yeah.

CHAIRMAN EWASUTYN: Any comments from our consultants as far as ARB?

(No response.)

CHAIRMAN EWASUTYN: Ken.

MR. MENNERICH: One other question. Are those other projects you're doing going to be all modulars, too?

MR. O'DONNELL: No. They're stick built.

MR. MENNERICH: They're stick built?

MR. O'DONNELL: Yup. They're panel buildings.

MR. BROWNE: Why modular for this one?

MR. O'DONNELL: It just worked out with

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ORCHARD HILLS

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the style building to, you know, accept the modular easier than the style that we're doing on the other project.

CHAIRMAN EWASUTYN: Okay. Mike, do you want to discuss with us, and Bryant, everyone, the Amending Findings Statement for this?

MR. DONNELLY: I'll defer to Bryant. I think he has a better handle.

MR. COCKS: Sure. Originally this project received a positive declaration under SEQRA. They submitted an Environmental Impact Statement which was accepted January 12th of 2006. A Findings Statement was adopted in March of 2006. Since this project has changed a couple times there's been two consistency documents, one on June 5, 2008 and one on May 21st of this year which was actually for the subdivision portion which is now being removed. Then they had to come back and do another Amended Findings Statement addressing any new issues from this portion of the project. Some of them just included the payment of parkland fees and also taking out the soil mitigation that was required by the Health Department when it was a twenty-one

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ORCHARD HILLS

lot subdivision. So he has addressed all the issues on the Findings Statement that was submitted and we have no further issues with it.

CHAIRMAN EWASUTYN: And there's one change to the Findings Statement that Mike Donnelly is going to discuss with us, and the Board would have to grant a waiver on the buffer planting. The fact is this proposed plan is showing a greater buffer area than would be required under the current buffer regulations. I'll let Mike speak on that.

MR. DONNELLY: In fact, the buffer area itself is shown and does exist. What we think is waivable, and makes sense to waive here, is the requirement of plantings within the buffer area according to the buffer law, both because this site and the adjoining site have adequate land in its natural state that provides separations building to building that make that planting unnecessary, probably unnatural and extravagant.

CHAIRMAN EWASUTYN: So I'll move for a motion from the Board to grant the buffer requirement based upon the description that our Attorney, Mike Donnelly, has just given for the

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ORCHARD HILLS

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record.

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Okay. So at this point we have two motions before us, one to adopt and approve the Amended Findings Statement, and the second motion is to grant ARB approval for Orchard Hills.

Mike, can we make the motion to combine both actions?

MR. DONNELLY: I don't see why not.

CHAIRMAN EWASUTYN: Then I'll make a

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ORCHARD HILLS

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motion to grant the -- to approve the Amended Findings Statement and to approve ARB for the Orchard Hills project.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

I'll move for a motion to set the 19th of November for the Orchard Hills project for consideration of final approval.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by

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ORCHARD HILLS

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Joe Profaci and a second by Tom Fogarty. Any discussion of the motion?

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Thank you.

MR. WINGLOVITZ: Thank you. Do you need me to explain at all about the slight change in the footprints?

CHAIRMAN EWASUTYN: Please. Why not.

MR. WINGLOVITZ: I talked to the consultants and to John. We received the architectural and there's one change that's -- a perceivable change in the plans. These six buildings here are the uphill buildings that Jay talked about. These buildings are slightly wider than the buildings that were shown on the plans, the architect whose plans modified this. So

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ORCHARD HILLS

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we're amending the site plan to modify these three buildings since they're slightly bigger than the ones shown on the plans. So that will be a change that will be submitted next week. All the other footprints that have been brought in is really unperceivable changes in the footprints from the final footprints to what's shown here other than those six.

CHAIRMAN EWASUTYN: Bryant, do you have any concern about that?

MR. COCKS: No. They'll still meet all the setback requirements, so I don't think it will affect the project.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: I'm okay with it.

CHAIRMAN EWASUTYN: Karen?

MS. ARENT: I'm okay.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: It's okay.

CHAIRMAN EWASUTYN: The consultants feel satisfied.

MR. WINGLOVITZ: Thank you very much. See you on the 19th.

(Time noted: 7:16 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: November 30, 2009

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

----- X
In the Matter of

SUBDIVISION FOR GARDNERTOWN COMMONS
(2009-12)

Intersection of Gardnertown Road and Creek Run Road
Section 75; Block 1; Lot 21
R-3 Zone

----- X

CONCEPTUAL FIVE-LOT SUBDIVISION

Date: November 5, 2009
Time: 7:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO AND
LORRAINE POTTER

----- X

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

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GARDNERTOWN COMMONS

MR. BROWNE: The next item of business we have is the subdivision for Gardnertown Commons. It's a conceptual five-lot subdivision being represented by Lorraine Potter of Lanc & Tully.

MR. CAPPELLO: Good evening. I'm John Cappello of Jacobowitz & Gubits and I have here with me Lorraine Potter of Lanc & Tully.

This project has been before the Board for several years. It has site plan approval. It's the Gardnertown Commons project. It's a 104 unit -- townhouse style units with a clubhouse. Like I said, it's townhouse style which will be in condominium ownership.

Because the units are in condominium ownership we have to be creative in how we will phase the project. As the Board -- when we went through the site plan we did discuss the construction phasing, how it would be built out and how the phases would occur. Because of the intricacies of condominium law, you can not have what they call a creeping condominium. So we can not form a condominium for the first phase and then extend it to take the units in the second

1 phase. So what we had been doing in the last few
2 months is meeting with the County to determine
3 how they think we may handle it, and then meeting
4 with your attorney and the town attorney to
5 discuss the options. How we decided in looking
6 to proceed is for the Board to use its clustering
7 authorization, because we will be building no
8 more units than we were approved under the
9 existing Town of Newburgh law for this zoning
10 district. So we were entitled to 104 units. So
11 that would be, in effect, our conventional plan
12 showing 104 units. We're not changing the units,
13 we're not changing the road layout, sewer, water,
14 anything. It's the same project but what we're
15 doing is we're now coming out -- condo 1, which
16 will be four buildings and twenty-two units, will
17 be the first phase to be developed. That will be
18 these four boxes here. These four boxes will be
19 one block. It will be owned by condominium
20 number 1. That is all they will own. They will
21 own the floor, buildings with the units as one
22 lot. The remainder parcel, which we call HOA
23 parcel A, will be owned by a homeowners
24 association. That will encompass the land
25

1 surrounding it and it will encompass the road or
2 section 1.
3

4 Now unlike a condominium, an HOA, a
5 homeowners association, can expand. So as we
6 develop the surrounding land around the buildings
7 we'll continue to be in a homeowners association.
8 So we will have a master homeowners association
9 that will be responsible for maintaining the
10 roads, for maintaining the water and sewer
11 connection, for maintaining the drainage areas,
12 for maintaining the clubhouse and all the other
13 amenities, and the landscaping. All the condos
14 will be charged with is maintaining the actual
15 buildings in their individual condo association.
16 So phase I will be these four boxes which will be
17 one lot, twenty-two units, and another lot for
18 the HOA which will be formed. The remaining
19 lands will be owned by the project sponsor.

20 Then as we go to phase II there will
21 be lot number 2 which will be five boxes, five
22 buildings and thirty units. As we develop, condo
23 3 will be twenty-four units and condo 4 will be
24 twenty-eight units.

25 So at the end of the day you will have

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four condominiums, each owning the buildings in their respective phase, each responsible for maintaining the building, and that will be important because obviously repairs will be needed to be made to the buildings in condo 1 much earlier than in condo 4, unless by some act of God we sell them all and build quickly and the market turns. So they will be responsible for maintaining. They will all have equal ownership and membership into the HOA. So when the project is entirely done you will have four condominiums and one master HOA that all the condominiums will be equal members in charged with the maintenance.

We did incorporate into the plans the requirement of the phasing. For instance, in phase II we're required to construct an emergency -- either an emergency road or at least build the rest of the loop road to be passable. That was a condition that was in the original approval. It's carried over to this. There will be easements that will be necessary to be granted to -- initially the project developer will have to grant an easement to the condo for one of the drainage areas to allow them to do drainage that

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will be built on land of the project developer that will be serving, you know, the phases. So that is all, you know, on the plans and all being reviewed by your consultants to make sure it goes orderly, but this is the best case scenario we've come up with to allow the developer to proceed to build twenty units, to start marketing the units and then use the funds to build the other buildings to, you know, build and continue to develop in a phased manner. Unfortunately it's a little bit creative because that's what we needed to do to comply with the, you know, specific laws regarding condominiums.

CHAIRMAN EWASUTYN: Thanks for the explanation. That answered some of the questions we had during the work session. We had thought at that time rather than spend a lot of time talking amongst ourselves, we would wait to hear from yourself this evening. We received some of the answers.

So I'll put it, Bryant, from what you've heard so far, talk to us.

MR. COCKS: I think we discussed at the work session that we'd like to have a written

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narrative of everything that's going to happen in each phase so we can have it on paper.

And then we're also going to require map notes so the building department gets it and they know the exact sequencing of everything.

With the cluster development regulations you are required to show a fifty-foot buffer on the property lines that are adjacent to other lots. You are providing it, you're just going to need to show the line on that.

We're going to need a signed and sealed survey sheet showing the metes and bounds of each separate lot. I think that will make it easier for the building department also. They'll know where the lot lines are actually going to go.

It doesn't have to be done at this time but we're eventually going to have to discuss the payment of parkland fees and if it's going to go lot by lot, if it's going to be deferred until the time of each building permit for each lot. That's just going to have to be discussed and figured out.

I think that was all I had.

CHAIRMAN EWASUTYN: Pat Hines, Drainage

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Consultant?

MR. HINES: We reviewed the plan. We're suggesting that a blanket cross-grading easement should be provided across the lots, as the various condo associations show grading across each of the lots, so that they can be constructed.

Mirroring Bryant's comments on metes and bounds of each of the lots, there's a two-lot subdivision sheet on the rear of the set, it's labeled sheet 1 of 1, but it looks like you're proposing a four-lot subdivision.

MR. CAPPELLO: Phase I.

MR. HINES: You'll be back again?

MR. CAPPELLO: We'll have to come back for the additional phases. The initial part we're just creating -- we're doing it in sections, so you will have actually three lots. Lot number 1, the four boxes that will be owned by the condo, the HOA lot which will be the remainder of land within section 1 which will have the road area and the facilities, and then the remainder land which will be owned by the project sponsor pending development of the

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additional phases.

MR. DONNELLY: John, does it make sense to ask the Board to preliminarily approve that ultimate layout --

MR. CAPPELLO: Yes.

MR. DONNELLY: -- but grant only final approval each time you're ready to move forward so that --

MR. CAPPELLO: Exactly. Like a regular, you know, subdivision.

MR. HINES: I think that will clear that up, too, by doing that. I just didn't want to have one or two lots. It will make it clear that in the future you are going to come back.

Also, you just referenced the condo boxes. There needs to be some way to reference those on the plan. Right now they're a shape and no one can survey those. They need to be tagged with a reference point so you know where that is on the plan and what they actually own. I don't know if it needs metes and bounds around each one but at least some kind of coordinate system so you can know where the boxes are on the plan.

MS. POTTER: There will be metes and

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bounds on each one of those.

MR. HINES: That's fine. That answered that question.

And we're just suggesting lot 2 should maintain an access easement because if lot 2 goes to some other owner, it looks like the only real access point to the project is across from Maurice Drive. So any future development would have to go through the condo 1 lot area. I think that will clean that up also.

CHAIRMAN EWASUTYN: Karen, you had some questions on bonding?

MS. ARENT: I just didn't know when -- how the bonding will work and when to submit the landscape cost estimate for what phase and how much.

MR. DONNELLY: One of the things I was going to suggest simultaneously with this is that you come back with your site plan that now shows the lots and the phases, and I think with that higher level of formality it would be likely that the bonding should tie in to each of the phases as we go. I think that's the point Karen is making. That's more of a site plan issue because

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the only bonding we need for the subdivision might be whatever basic public improvements were part of it. The rest of that bonding is going to go with the site plan.

I don't think we had phased landscape bonding in the original one. Did we?

MS. POTTER: No, we didn't. I did send Karen phased landscaping at that time and you had said we would have to consider what was being done overall as far as the subdivision.

MR. DONNELLY: But now this is true phasing and not just construction sequencing because we have different parcels.

MR. CAPPELLO: Right. We would like to -- I mean that is a big part of doing it this way, so we would only have to build and bond the improvements for each individual section. Obviously as your final review of this, as you did with the traffic, you may say okay, by the time you're done with the second phase we want plantings around the drainage pit, additional portions of that. We will, you know, work with the Board and consultants.

MR. DONNELLY: As long as we're still

1 talking about bonding, since you were last here
2 for an approval the Town Board has amended its
3 bonding procedures in two significant ways that
4 might impact this project, both of them I think
5 favorably to you. You are now permitted to defer
6 the payment of landscape bonding as well as the
7 fees in lieu of parkland from map or plat signing
8 until issuance of building permits. There are
9 several requirements. You have to sign an
10 acknowledgement, you have to have certain notes
11 on your plans, and there needs to be a resolution
12 condition included here. So if you wish to avail
13 yourself of that, it's simply a resolution of the
14 Town Board. Either Bryant or myself can get you
15 a copy and follow through with that procedure.

17 I think what would make sense for the
18 fee in lieu of parkland is that it be on the per
19 unit basis, payable upon, I would think, the
20 first building permit in each phase, because I
21 think that's how the resolution reads. Similar,
22 the landscape bond could be delayed until
23 building permit issuance for each phase rather
24 than map signing. So you want to look into that.
25 It's to your advantage.

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CHAIRMAN EWASUTYN: John, would you refresh our memories, when will the improvements on Gardnertown Road and Gidney be started and completed with this project?

MR. CAPPELLO: We had originally stated the forty-fourth unit. When we went to the Town Board we did reduce that. I had the agreements. I think it's the thirty -- I'll have to check but I think it's at the end of the first phase.

MR. DONNELLY: It's a formalized agreement with the Town Board and that agreement is not proposed to be changed?

MR. CAPPELLO: Right. We did go through -- they did change it to reduce it to make it quicker. Like I said, it was originally forty-four. I don't know what we were down to. It's either down to twenty-two or thirty-six but it is before the second phase. I did look at it to make sure it was done before the phasing, and I have a package to my client to sign all the agreements. We should have those in this week.

We're actually deeding that widening strip to the Town now so you have it. You know, even if this didn't go through, it's to the

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GARDNERTOWN COMMONS

Town's benefit just own that widening strip. So we'll be taking care of those loose ends.

Really what we'd like to do, once we get out of the concept here, through with the Board, we will then go and fine tune everything to the site plan and hopefully now -- because there are certain conditions with that including Architectural Review Board, kind of work to wrap it all up, accomplishing it in a few months hopefully.

CHAIRMAN EWASUTYN: Any questions from the new Board Members as far as the off-site improvements that John was just discussing with us?

MR. WARD: No. Basically it's good.

CHAIRMAN EWASUTYN: Tom?

MR. FOGARTY: No. That was my concern, when does this whole improvement of Gidney and Gardnertown kick in.

CHAIRMAN EWASUTYN: Okay. Congratulations. I just received something from Pace Law School and your name was mentioned in there.

MR. CAPPELLO: I hope you're coming.

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Actually let me know. We have five tickets.

CHAIRMAN EWASUTYN: I wish I had the time. Thank you.

Okay. Jerry, do you have anything to add to this at this time?

MR. CANFIELD: No. In the work session we discussed the secondary means of access which you have addressed. I have nothing further.

Just one question. If I'm hearing it, we will get another look at -- other than just seeing the subdivision, we will look at the phasing as a whole or will it be individual phases that we see?

MR. DONNELLY: My suggestion is when you come back here again with the subdivision, you also come back with the new site plan and that we get that re-approved at the same time that we do preliminary subdivision and likely phase I final subdivision. So I think the answer is yes, and I think it should be done together, not one after the other.

CHAIRMAN EWASUTYN: So John, the action you're looking for this evening is conceptual approval of the subdivision?

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MR. CAPPELLO: Yes.

CHAIRMAN EWASUTYN: And then you'll resubmit at a later date in which case we would more than likely do a SEQRA consistency determination and set it for a public hearing.

MR. CAPPELLO: Yes.

MR. DONNELLY: John, I just had two other comments if I could. One is on the revised subdivision. The preliminary one that shows all of it, because this is a cluster the Planning Board needs to set the bulk table parameters for each lot. So if you could provide like a mini-bulk table with what is proposed as the new controlling both limits for the lot, that would be the easiest way to handle that. Beyond that point, no one could go without a variance because without the bulk tables you couldn't get the individual lots.

Secondly, under SEQRA, and with an eye toward the SEQRA consistency determination, be prepared to explain in the phasing plan what's going to happen with the balance of the land. For instance, you are putting in -- you're carving out a section for a utility line. How is that

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2 land to be treated in terms of stabilization and
3 its look. Further, if there's any proposal to be
4 stockpiling dirt or doing grading or clearing
5 work on future phased land, I think the Board
6 wants to be considering that under SEQRA as an
7 environmental issue and be comfortable with
8 what's proposed. I think what the Board doesn't
9 want to see is large stockpiles of earth or
10 materials to be utilized in a future phase that
11 become weed mountains for a period of years until
12 you get there. So those things -- now that we're
13 talking about the possibility of each phase being
14 the end of the line, I think the Board needs to
15 have answers to those questions to be comfortable
16 under SEQRA that there are no environmental
17 impacts that are being created by this more
18 formalized process.

19 CHAIRMAN EWASUTYN: Cliff Browne, do
20 you have any questions?

21 MR. BROWNE: Yes. Lot 1 is going to
22 consist of the four buildings --

23 MR. CAPPELLO: Yes.

24 MR. BROWNE: -- that will be owned by
25 condo 1?

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GARDNERTOWN COMMONS

MR. CAPPELLO: Right.

MR. BROWNE: Just the buildings?

MR. CAPPELLO: Just the buildings.

MR. BROWNE: That's going to be a separate lot? Each of those will be a separate lot from lot 1?

MR. CAPPELLO: No. Each of those -- that's what we met with the County on. You don't need to be contiguous. That will be one lot. We'll have to be creative in how we -- if the four boxes will be one lot.

MR. BROWNE: You can have four separate boxes not hooked up to each other?

MR. CAPPELLO: They don't necessarily need to be hooked up. That's why we're calling it 1-A, 1-B, 1-C and D.

MR. DONNELLY: It's a little like the concept under the Newburgh code, that a lot that is split by say a Town roadway can still be a single tax map parcel, and even a single development lot, even though it's two separately defined boxes. It's the same concept that says that a single tax map parcel can be splintered.

MR. BROWNE: Okay. That was confusing.

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GARDNERTOWN COMMONS

MR. DONNELLY: Makes you scratch your head but --

MR. CAPPELLO: We did run it by and met with the Orange County Realty Real Estate department, too.

MS. POTTER: I might mention also that condo 1, those four lots will be within parcel 1 of the HOA, so --

MR. BROWNE: That part I didn't have a problem with. I never heard of --

MR. DONNELLY: So it's two lots, a total of five pieces.

MR. BROWNE: Okay. And each of those four buildings will have its own metes and bounds?

MR. CAPPELLO: Yes. Actually, I think when they start --

MS. POTTER: The lot will have its own metes and bounds.

MR. HINES: It's larger than the building.

MS. POTTER: No. Let me flip to another sheet. I think this might help a little bit.

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GARDNERTOWN COMMONS

MR. HINES: It's a little larger than the building.

MS. POTTER: For phase 1, the yellow box is the lot. I show in here the building within the lot.

MR. BROWNE: Okay.

MS. POTTER: So there's approximately roughly ten feet -- the lot line is approximately ten feet away from the building.

MR. BROWNE: That raises another question just for clarification. If we have that ten foot that will be owned by that lot ownership, are you going to construct the HOA so they are responsible for maintaining that property?

MR. CAPPELLO: Yeah. There still will be the blanket easement back and forth, and the HOA will have to have an easement. We didn't want to cut it too tight because then invariably what will happen is someone will run into a rock or stake it out and then we'll have to come back and go for resubdivision approval. We did give ourselves not much but a little bit of leeway.

MR. BROWNE: Thank you.

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Also, Mike mentioned about the SEQRA thing. I was kind of concerned about that because we'll be looking to make a statement of consistency. I want to be comfortable with the way this is going to be broken up, that if in fact the rest doesn't happen, that we're not going to be impacted.

MR. CAPPELLO: Sure. That's an important point.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have no questions.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Tom?

MR. FOGARTY: No.

CHAIRMAN EWASUTYN: John?

MR. WARD: With phase I, the clubhouse is included with those four buildings; right?

MR. CAPPELLO: No. The clubhouse will be in the land owned by the HOA, and the clubhouse has to be built I believe at forty-nine units. It's all in the -- you know, so that will be built as part of phase II, and it will be

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GARDNERTOWN COMMONS

owned and maintained eventually for all the
condos but it will be owned by the HOA.

MR. DONNELLY: The physical building
will be within the lands --

MR. CAPPELLO: Yes. It will be within
this area that the HOA will own from the
beginning.

MR. WARD: Basically it's going to be
like the second phase?

MR. CAPPELLO: It's being constructed
in the second phase.

CHAIRMAN EWASUTYN: Any additional
questions from our consultants or Board Members?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for
a motion to grant conceptual approval for the
five-lot subdivision for Gardnertown Commons.

MR. WARD: So moved.

MR. PROFACI: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

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GARDNERTOWN COMMONS

roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So
carried.

Thank you.

MR. CAPPELLO: Thank you.

MS. POTTER: Thank you very much.

(Time noted: 7:40 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: November 30, 2009

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

----- X
In the Matter of

ROUTE 9W GAS & CONVENIENCE STORE
(2009-14)

Route 9W and Carter Avenue
Section 27; Block 2; Lot 25
B Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 5, 2009
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: GREGORY SHAW & DOMINICK
CORDISCO

----- X

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

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MR. BROWNE: We have Route 9W Gas and Convenience Store. It's a conceptual site plan being represented by Greg Shaw of Shaw Engineering.

MR. SHAW: Before I begin my presentation I would like to introduce Dominick Cordisco who is going to be the project attorney. After I speak to you about the general layout of the site, Dominick will speak to you about our request for referral to the Zoning Board of Appeals.

To begin with, the site is four acres, it's on the east side of 9W immediately opposite Carter Avenue. It's a four-acre site, it's located in a B Zone and butts up against a residential zone to the rear.

In the development of the site we've laid in a sixty-foot buffer which we intend to embellish, in simple language, when we get into the detailed plans of this site.

We're proposing the construction of an 8,300 square foot, we're calling it a convenience store. Maybe the best way to express it would be something similar to a QuickChek that you have

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ROUTE 9W GAS & CONVENIENCE STORE

down in New Windsor on Windsor Highway where it's not only a convenience store but there's also food preparation inside. Again, it's 8,300 square feet so it's a pretty good size.

With that we are requesting the construction of an eight-island gas dispensing canopy and a fuel pump system which again would service cars coming into the facility.

Our access is going to be off of 9W at the intersection. We realize there's going to be improvements to the signalization of the intersection, possibly relocation, very possibly a road widening, but that is in the future. Right now we're trying to get to the Zoning Board of Appeals.

With respect to the zone schedule, we complied with all aspects.

Parking spaces, we're obligated to provide fifty-six spaces and right now the layout shows ninety-two spaces.

I noticed in your consultants' comments that they felt that if we really didn't need the ninety-two spaces, that maybe we should come in with less spaces, and I would probably concur.

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So I think the next layout you see we'll see a reduced version of this with respect to the number of spaces and maybe a little bit more generous in the size of spaces and back-out drives, and possibly a loading area.

But again, the purpose tonight is for the referral to the Zoning Board of Appeals.

With respect to the services, we're planning on putting in an on-site detention and treatment facility and discharging into the State's drainage system.

With respect to water, as you know the building is going to have to be sprinklered so we're going to be tapping the water main, which of course is on the other side of the street. We're going to have to bore underneath the highway. Finally with respect to the sewage disposal, we're going to have a new sewage disposal system on the northerly part of the site.

All these details are going to have to be worked out as we get into further submissions to this Board. That is a general overview.

With that I'd like to introduce

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Dominick Cordisco who will speak to you tonight about the referral.

MR. CORDISCO: I don't know that I need to speak. I think Greg actually summed it up quite well. I'll just add that we're here to hear your comments, and we are also of course looking for a referral to the Zoning Board. Without the variance that's triggered as a result of our proximity to an existing gas station, without it we don't go anywhere. So we're looking for a referral to the Zoning Board. And if we're successful at the Zoning Board, then we'll be back before you with technical answers on the issues that Greg had mentioned.

CHAIRMAN EWASUTYN: I'll turn to our consultants if there's any outstanding comments they have that they would like to speak about this evening.

I'll start with Bryant Cocks, Planning Consultant.

MR. COCKS: At this point, as mentioned, this is just conceptual in nature. The details we're going to work out for the lighting or landscaping, architectural details

1 and issues with the design guidelines and the
2 layout of the site. As mentioned, that will be
3 addressed later on. Right now I think the only
4 thing going on is a referral to the ZBA for the
5 setback from another gas station.
6

7 CHAIRMAN EWASUTYN: And that would be
8 an area variance?

9 MR. COCKS: Yes.

10 CHAIRMAN EWASUTYN: Pat Hines, Drainage
11 Consultant?

12 MR. HINES: Again it's conceptual. The
13 stormwater management on the site will be
14 considered a hot spot for the DEC design
15 standards because of the pooling.

16 There are existing structures on the
17 site that will need a demolition permit. The
18 appropriate notes requiring that permit need to
19 be on the plans.

20 There's a rather large retaining wall
21 to the rear of the property that will need to
22 have a detailed design for the Planning Board's
23 review.

24 We brought up the number of parking
25 spaces.

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That's the extent of our comments.
We'll give further review upon the submission of
the detailed engineering.

CHAIRMAN EWASUTYN: Karen Arent,
Landscape Architect?

MS. ARENT: When you're looking at more
detailed drawings, consider the location of the
stonewall and perhaps consider instead of
paralleling the property line, consider
paralleling the parking spaces so there's a
little more green in the street scape on 9W. And
get the stonewall a little higher so it does a
more effective job of screening the parking.

That's it.

CHAIRMAN EWASUTYN: Jerry Canfield,
Code Compliance?

MR. CANFIELD: Conceptually we have
nothing outstanding. The site does meet or
exceed the site accessibility of the fire code.
A copy of our comments have been sent to Mr.
Shaw.

Just more in depth and in a further
submission we ask that the tank size and fuel
type be located, and also verification that the

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ROUTE 9W GAS & CONVENIENCE STORE

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four-inch line supplied to the building will facilitate the sprinkler system.

That's all we have.

CHAIRMAN EWASUTYN: Board Members.
Cliff Browne?

MR. BROWNE: Most of the comments are with the assumption that you're going to get your variance. We'll have you back. From a conceptual standpoint I'm good with this.

MR. MENNERICH: When you go for the variance will this be the plan you show them or will you be modifying this?

MR. SHAW: That will be the plan.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing now, John.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: The only questions I had were regarding the traffic study, but I assume that's on hold until you go before the ZBA.

MR. SHAW: Correct.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Everything was covered.

Thank you.

CHAIRMAN EWASUTYN: I'll move for a

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motion from the Board to have Mike Donnelly, our Planning Board Attorney, write a letter to submit to the Zoning Board of Appeals to refer this to the Zoning Board of Appeals for an area variance for being within 1,000 feet of an existing station. 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: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

I'll move for a motion from the Board to grant conceptual site plan approval for the Route 9W Convenience Store.

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ROUTE 9W GAS & CONVENIENCE STORE

MR. FOGARTY: So moved.

MR. PROFACI: Second.

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

MR. MENNERICH: I guess the parking changes and the drainage changes and things that we've mentioned will change the concept, but I guess that's understood; right?

MR. SHAW: What I can assure you is that the entrance will not change, the canopy for the gas dispensing island will not change, the building will not change, the locations and the sizes won't.

What may change is just the configuration of the parking as it wraps around the building. That's the only change.

CHAIRMAN EWASUTYN: Would you want to wait until it comes back from the ZBA before we grant conceptual approval? Is that what you're saying?

MR. MENNERICH: Well, I don't think -- I guess the drainage issue that Pat brought up, the hot spot, could change how the drainage is

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taken care of. Maybe I misinterpreted that in work session.

MR. HINES: It could. There are certain design standards that have to be implemented. Normally they don't want that as an infiltration system. They could put in some other water separators. There's technical ways to handle that. Again, we'll review that when it's submitted.

MR. MENNERICH: Okay.

CHAIRMAN EWASUTYN: I think as far as clarification on the parking, the Board would probably be more in favor if you eliminated some of the parking along Route 9W as compared to the rear of the property. That's the concept plan that we're about ready to approve.

Any additional comments?

(No response.)

CHAIRMAN EWASUTYN: I have a motion before us for a conceptual approval made by Tom Fogarty. I have a second by John Ward. We had discussion from Board Member Ken Mennerich. Any further discussion?

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. SHAW: Thank you.

MR. DONNELLY: One quick note. In my referral letter to the Zoning Board I'll include what we discussed at work session, and that is our recommendation that this matter best be handled by them on an uncoordinated review under SEQRA and they can make their own determination. We'll hold off doing our lead agency for what might ultimately be a coordinated review with the DOT until after it returns from the Zoning Board.

MR. SHAW: Fine. Thank you.

MR. CORDISCO: Thank you all very much.

(Time noted: 7:51 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: November 30, 2009

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

----- X
In the Matter of

LANDS OF RACQUET ROAD BUSINESS PLAZA, LLC
(2009-17)

26 Racquet Road
Section 86; Block 1; Lot 85.35
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: November 5, 2009
Time: 7:52 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE & DARREN DOCE

----- X

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

1
2 MR. BROWNE: The next item of business
3 we have is the Lands of Racquet Road Business
4 Plaza. It's a conceptual site plan and it's
5 being represented by -- it looks like Vince and
6 Darren Doce of Doce Associates.

7 MR. VINCENT DOCE: My client owns a
8 piece of property of some seven-and-a-quarter
9 acres as is outlined in orange on Racquet Road,
10 almost halfway between Rock Cut Road and 17K.
11 Back in 2000, 2001 he had a site plan approved
12 for an office and warehouse structure and he has
13 since received the CO some years back, and he's
14 been operating ever since.

15 He has a vacancy now of one of the
16 units that is shaded in pink, the overall
17 building being yellow. This is shaded in pink
18 and he has a perspective tenant who would like to
19 move in as quickly as possible. It's New CO2
20 Supply, LLC. New CO2 supplies the charging
21 gasses for most of the 7-Elevens, McDonald's,
22 those little canisters that they use to charge
23 their vending machines.

24 The application is fairly
25 straightforward. We're not touching the site to

1 any appreciable degree.

2
3 In the manifestation of the ultimate
4 project there they require a charging tank for
5 the CO2, and that's a -- let's call it a tanker
6 type truck comes in once a week, maybe once every
7 four days, and charges their CO2 cylinder here.
8 It sits there, it's enclosed. We have placed
9 bollards around it as requested by the Town and
10 also by New CO2.

11 Once a day a small, a very small fuel
12 oil sized truck, maybe a little bit smaller,
13 comes in and charges their tank and goes out to
14 the various businesses, McDonald's, 7-Eleven, and
15 charges their tanks. The truck is out all day,
16 comes back about 5 o'clock at night. That is the
17 vending truck for the gas. Also with that there
18 are two box size trucks that they deliver
19 hardware. If they have to install a new tank or
20 some insulation and things like that, they use
21 two box trucks. It's mainly the vending of the
22 gas.

23 Aside from that, it's very straight-
24 forward. Like I said, the site isn't going to be
25 disturbed at all because this pad is going to go

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LANDS OF RACQUET ROAD BUSINESS PLAZA 61
where there's an existing blacktop area. The only thing they do there also is on a very low scale they'll have a few CO -- small CO cylinders for replacement cylinders when some of the cylinders go bad in the stores or in the restaurants.

Other than that, it's perfectly safe. It's CO2, it doesn't explode, it doesn't do anything. If there ever is a leak, it's very, very seldom, all they do is dissipate. It's CO2. From my chemistry days I believe that the atmosphere is about three percent already of CO2. You would have to have twenty times that in a very small area this big to even have any effect on anybody as far as breathing or something. So it's not dangerous.

There is going to be the web-type fence around it. As far as I can see, it's rather effective, so I don't see that there is any SEQRA -- Type II SEQRA determinations that have to be made.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance, you had a recommendation.

MR. CANFIELD: Mr. Doce addressed the

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2 issue with the bollards which Pat and I had both
3 requested.

4 Just a point of interest. At the time
5 of building permit, should the Planning Board
6 approve this amended site plan, the original
7 design of 2002, there's a water quality basin,
8 number one, that's right near where you propose
9 to put this tank. Just make sure that that's not
10 disturbed, which I'm sure you will.

11 It should be noted that the proposed
12 tank and pad is outside the 100-foot buffer for
13 the DEC wetlands. That was delineated on the
14 original plan in 2001.

15 We have no outstanding issues -- no
16 outstanding zoning issues. We have nothing
17 further on it.

18 CHAIRMAN EWASUTYN: Pat Hines, Drainage
19 Consultant?

20 MR. HINES: We have nothing additional
21 on this.

22 CHAIRMAN EWASUTYN: Bryant Cocks,
23 Planning Consultant?

24 MR. COCKS: I actually went out and
25 took a look at the site, and it doesn't look like

1
2 you would be able to see the tank from the
3 roadway whatsoever. It's a large lot. There's no
4 adjacent lots that it would have any visual
5 impact on.

6 Vince mentioned this is a Type II
7 action, no further SEQRA determination is
8 required.

9 We have nothing further on the site
10 plan.

11 CHAIRMAN EWASUTYN: Thank you.

12 Karen Arent, Landscape Architect?

13 MS. ARENT: There is green coated chain
14 link fence specified I believe.

15 MR. VINCENT DOCE: Yes. By the way, I
16 have a representative of Barry Sandler, the owner
17 of the property, Bill Frick; and a representative
18 of New CO2, Terence McKiernan.

19 If I could just ask him, the green --
20 you're going to use the green web chain like
21 fence?

22 MR. FRICK: That's correct.

23 MS. ARENT: If you want it to blend
24 better, black is a better color.

25 MR. FRICK: We don't have a preference.

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If you say black, it doesn't matter to us. We intended to use some kind of shading there.

MS. ARENT: Black would be better.

CHAIRMAN EWASUTYN: For the Stenographer, although Mr. Doce was kind enough to introduce the individuals, would you give your name?

MR. FRICK: I'm sorry. Bill Frick, F-R-I-C-K.

CHAIRMAN EWASUTYN: Okay. Comments from Board Members. Cliff Browne?

MR. BROWNE: How big is this tank that's along in there?

MR. DARREN DOCE: The tank is 36 -- approximately 36 feet long by 8 feet wide.

MR. CANFIELD: 8 1/2 high.

MR. VINCENT DOCE: 8 1/2 feet high.

MR. BROWNE: And you need to put in a concrete pad to support that for what we're talking about?

MR. DARREN DOCE: Right.

MR. VINCENT DOCE: Right.

MR. BROWNE: Mr. Doce mentioned one tanker coming in to fill this once a week or so.

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MR. VINCENT DOCE: Yeah.

MR. BROWNE: How many delivery trucks will be going out from your facility?

MR. McKIERNAN: One.

MR. BROWNE: And that truck, as Vincent said, was a smaller oil tank size?

MR. McKIERNAN: Similar to an oil truck that would deliver to your home.

MR. BROWNE: My understanding is there's adequate area for parking, turnaround and all that stuff on the site currently. Is that correct?

MR. VINCENT DOCE: You can see the shaded area in brown is the blacktopped area. You can see that there's plenty of parking. It's in excess of what they need, and you can see it's quite deep. The trucks just come in there. It's like a panel truck almost, a little bit bigger.

CHAIRMAN EWASUTYN: This is one of the sites we had visited on our quarterly site inspection.

If I could have other Members speak as far as the rear.

MR. BROWNE: Thank you.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The two panel trucks and the delivery truck, when they're not being used they'll be on the site at night?

MR. VINCENT DOCE: Yeah. Just during the night.

MR. MENNERICH: In the front or the back do you think?

MR. VINCENT DOCE: In the back. It would be in this area here.

MR. MENNERICH: Okay. Thanks.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have no questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No questions.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: The truck that supplies, is it like a propane -- the tanker truck that comes in, that type of thing?

MR. McKIERNAN: The one that we use daily? Yes.

MR. WARD: Yes. Basically I'm just asking noise wise, is it loud to fill it up and, you know --

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MR. McKIERNAN: There's a pump that fills it up. It's not loud, no.

MR. WARD: I'm just -- because you're low enough that there's a sound barrier anyway. I'm thinking other people in the building, you know, time wise if they are working or whatever. Safety issue, too.

MR. McKIERNAN: Right.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: As Vince Doce had explained, this is a Type II action under SEQRA which means it's under 4,000 square feet so it's really exempt.

I think the only motion before us tonight -- Michael, would you give it to us, please, in the resolution.

MR. DONNELLY: Just a quick question. There's no need for any 239 referral here?

CHAIRMAN EWASUTYN: It's greater than 500 feet from a State or County road? I originally spoke to -- Harry is your name?

MR. FRICK: Bill.

CHAIRMAN EWASUTYN: Bill on the phone and that was my question, is it greater than 500

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feet.

MR. VINCENT DOCE: Let's take a look at this.

MR. COCKS: This location map is kind of -- I don't think I can tell from this location map. It looks like it must be further, but --

MR. DONNELLY: If that's the case, then there's no referral required.

MR. DARREN DOCE: It's over 500 feet.

MR. DONNELLY: Then the approval is for amended site plan, because there had been a site plan in the past, and for ARB. I don't think there's any bonding required, not landscaping bonding or anything else. There's really only two conditions, and that is that you can't build anything other than as shown on the plan, and the building permit materials that are submitted have to be consistent with the plan that's approved tonight, the standard ARB condition.

CHAIRMAN EWASUTYN: Having heard the conditions of approval for the amended site plan and ARB, I'll move for a motion to grant that for the Lands of Racquet Road Business Plaza.

MR. PROFACI: So moved.

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MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by John Ward.

MR. DONNELLY: Very quickly just before you vote, we are waiving any other required element of site plan submission not shown on the plan in view of the fact that this is an existing approved site.

CHAIRMAN EWASUTYN: That being part of the resolution, the condition of this approval, the motion was made by Joe Profaci and seconded by John Ward. That will be part of the minutes and part of the resolution.

Any other discussion?

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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

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LANDS OF RACQUET ROAD BUSINESS PLAZA

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MR. VINCENT DOCE: Thank you,
gentlemen.

(Time noted: 8:05 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: November 30, 2009

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

----- X
In the Matter of

ELM FARM SUBDIVISION
(2000-09)

Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: November 5, 2009
Time: 8:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MR. BROWNE: That concludes all the business items. We have one Board Business item, and that is the Elm Farm Subdivision, extension of preliminary approval. The current approval expires November 12, 2009. The applicant is requesting an extension that would run until May 9, 2010.

CHAIRMAN EWASUTYN: I'll move for that motion, to grant the extension of preliminary approval for the Elm Farm Subdivision.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So

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carried.

MR. BROWNE: That's it.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of the 5th of November.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:07 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: November 30, 2009