-	RECEIVED ORIGINAL
	SEP 1 6 2015
1	TOWN OF NEWBURGH
2	STATE OF NEW YORK : COUNTY OF ORANGE TOWN OF NEWBURGH PLANNING BOARD
3	X In the Matter of
4	
5 6	MATRIX/DIBRIZZI (2015-20)
7	Route 17K
8	Section 95; Block 1; Lots 4.12, 54.1, 69.25 & 49.12 IB Zone
9	X
10	INITIAL APPEARANCE
11	LOT LINE CHANGE
12	Date: August 20, 2015 Time: 7:23 p.m.
13	Place: Town of Newburgh Town Hall
14	1496 Route 300 Newburgh, NY 12550
15	BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
16	FRANK S. GALLI
17	DAVID DOMINICK JOHN A. WARD
18	
19	ALSO PRESENT: MICHAEL H. DONNELLY, ESQ. PATRICK HINES
20	GERALD CANFIELD
21	
22	APPLICANT'S REPRESENTATIVE: KEN GRIFFIN CHARLES UTSCHIG
23	
24	MICHELLE L. CONERO 10 Westview Drive Nollijk Nov. York, 12500
25	Wallkill, New York 12589 (845)895-3018

### MATRIX/DIBRIZZI

2	CHAIRMAN EWASUTYN: The second item of
3	business this evening is Matrix/Dibrizzi. It's
4	on Route 17K, it's the initial appearance for a
5	lot line change, it's located in an IB Zone and
6	it's being represented by Langan Engineering.
7	MR. GRIFFIN: I'm Ken Griffin and I'm
8	with Matrix Development.
9	CHAIRMAN EWASUTYN: Do you have a
10	business card for the Stenographer?
11	MR. GRIFFIN: Yes. We're here for
12	basically a lot line change. We're just changing
13	four lots proposing to change four lots into
14	three. They're all compliant lots. It really is
15	to improve the marketability and developability.
16	It's really straightforward. I have an engineer
17	here from Langan if there's any questions.
18	CHAIRMAN EWASUTYN: For the record you
19	are?
20	MR. UTSCHIG: Charles Utschig with
21	Langan Engineering.
22	CHAIRMAN EWASUTYN: Do you have a card
23	also?
24	MR. UTSCHIG: I do. I'll get it for
25	you.

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#### MATRIX/DIBRIZZI

CHAIRMAN EWASUTYN: Charles, do you want to give us an overview of what you're presenting?

MR. UTSCHIG: Sure. So the application is to, in essence, take four existing lots which are generally located between 84, 87 and 17K -those four lots are highlighted. Two of the lots which are highlighted in green are currently owned by Matrix, two of the other lots are owned by Dibrizzi and a corporation I believe, if I'm not mistaken.

13 Our proposal is to, in essence, take 14 those four lots and create three lots. So what's highlighted in yellow on the presentation board 15 16 are the underlying old lots. The green lot represents 71 plus acres. That would be owned by 17 Then there's two parcels which are about 18 Matrix. 19 9 and 6 acres, creating the three-lot plan 20 basically with the adjustments. The sense is 21 that in reality if you look at the topography 22 here you have two plateaus. This part of the 23 site is way up and this part of the site is down 24 They're kind of separated by virtue of the low. 25 topography. The long narrow lot here kind of

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#### MATRIX/DIBRIZZI

2	splits the two. So the thought is that by
3	creating the lots the way we have, we really have
4	created a more an easier way to develop them
5	and we believe a more efficient way to do that.
6	CHAIRMAN EWASUTYN: Questions from
7	Board Members. Frank Galli?
8	MR. GALLI: The two lots on the bottom,
9	who owns them?
10	MR. UTSCHIG: Dibrizzi.
11	MR. GALLI: He's going to keep
12	ownership of both of them?
13	MR. UTSCHIG: Yes.
14	MR. GALLI: Matrix is going to have
15	MR. UTSCHIG: The big green lot.
16	MR. GALLI: Okay.
17	CHAIRMAN EWASUTYN: Dave Dominick?
18	MR. DOMINICK: No.
19	MR. WARD: No questions.
20	CHAIRMAN EWASUTYN: Jerry Canfield?
21	MR. CANFIELD: I have no comments.
22	CHAIRMAN EWASUTYN: Pat Hines?
23	MR. HINES: Just a clean-up item. On
24	the approval block the Town engineer's name can
25	be removed. Only the Chairman will sign them.

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#### MATRIX/DIBRIZZI

Just a note, the project is located in 2 the City of Newburgh watershed which is a class A 3 stream due to the water supply. Stormwater 4 management on any future project typically will 5 require 110 percent of the water quality and 6 volume be treated. The regulations require 100 7 percent. Because the project is located in the 8 9 watershed, the Planning Board has a policy, although not a written requirement or regulation 10 11 by any means, that that additional level of 12 treatment be provided to protect the water 13 supply. Just a note. The 71 acre parcel seems 14

14 Just a note. The 71 acre parcel seems 15 to have some environmental constraints on the 16 access road. That would have to be addressed for 17 any future development. There's an unverified 18 Federal wetland on portions of that.

19There's an existing detention basin at20the end of Corporate Boulevard for the old21Newburgh Country Club Corporate Boulevard22Development. That will have to be taken into23consideration.

24 As far as zoning goes, the front yard 25 setback is depicted at 50 feet along 17K and the

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MATRIX/DIBRIZZI

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setbacks are required to be 60 feet along 17K. 2 3 That will need to be revised. 4 There is a requirement in the zoning that 35 feet of the front yard be a landscape 5 6 buffer. Typically we require that as a note on 7 the map, referring to that code section. Kind of 8 a buyer beware in the future that that is a 9 requirement. Otherwise that's all we have. 10 At work session we discussed the 11 12 requirement for compliance with the relatively 13 new notice to adjoining parcels. I'll defer to 14 Mike on that. 15 Those are the only issues we have. 16 CHAIRMAN EWASUTYN: Mike Donnelly, 17 Planning Board Attorney? 18 MR. DONNELLY: Yes. When a lot line 19 change application comes before the Planning 20 Board there is a lesser degree of formality and 21 it's defined as outside of the subdivision 22 regulations. The level of formality that exists 23 is an optional public hearing but a mandatory mailing. The mailing must take place within ten 24 25 days following the first appearance before the

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#### MATRIX/DIBRIZZI

2 Board, and it must go to every property owner within 500 feet as shown on the assessor's list. 3 Pat will help you with the notice but the Board 4 5 can't take action before that occurs. One other issue. As we have been here 6 7 this evening I received an e-mail from Mark 8 Taylor, the Town Attorney, forwarding a copy of a 9 letter from the city manager on this project. 10 The City of Newburgh manager. Their request is 11 that you classify this as a Type 1 action and not 12 approve the lot line change except in conjunction 13 with the expected site plan application for that 14 piece. I'll give you a formal response by 15 letter. When the Town put in the lot line change 16 section it intentionally lowered the degree of 17 formality and defined it as permitted under the SEQRA regulations as a Type 2 action. 18 It is not 19 a subdivision, therefore it doesn't require a 20 referral either to the Orange County Planning 21 Department or, even if a public hearing is held, 22 the City of Newburgh. None of that is to 23 suggest, as Pat has indicated already, that we're 24 not going to take the City's concerns about the 25 watershed lightly. We've already told you a

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### MATRIX/DIBRIZZI

2	little bit about what the regulatory scheme will
3	be. We will certainly let the City know and let
4	them have input into the plans as we've done on
5	other projects in the past.
6	My recommendation is that this be
7	classified as a Type 2 action and that we move
8	forward with the mailing and consider this at the
9	next meeting. Certainly I'll write back to the
10	City with information answering them with that
11	advice, and I'll send you a letter as well.
12	CHAIRMAN EWASUTYN: I'll make a motion
13	for Mike Donnelly to prepare a letter in response
14	to the letter that we received via Mark Taylor
15	from the City of Newburgh engineer to Mike
16	Donnelly with our response.
17	MR. WARD: So moved.
18	MR. DOMINICK: Second.
19	CHAIRMAN EWASUTYN: I have a motion by
20	John Ward. I have a second by Dave Dominick.
21	I'll ask for a roll call vote starting with Frank
22	Galli.
23	MR. GALLI: Aye.
24	MR. DOMINICK: Aye.
25	MR. WARD: Aye.

9 1 MATRIX/DIBRIZZI 2 CHAIRMAN EWASUTYN: Myself. So 3 carried. You'll circulate. We will reschedule 4 5 you for the meeting of September 3rd. Work 6 closely with Pat Hines as far as getting the 7 necessary mailing list from the assessor's office. 8 MR. GALLI: John, those mailings aren't 9 certified, they're just regular mail? 10 CHAIRMAN EWASUTYN: You'll work in 11 12 conjunction with Cindy Martinez. Once you get all the mailings together -- that's the secretary 13 for Supervisor Gil Piaquadio -- she'll notarize 14 15 the mailing. MR. UTSCHIG: We'll take care of that. 16 17 MR. DONNELLY: One affidavit of mailing and it's not certified. 18 MR. UTSCHIG: One? 19 20 MR. DONNELLY: You just have an affidavit of mailing from the list but it doesn't 21 need to be certified. 22 MR. UTSCHIG: Thank you. 23 CHAIRMAN EWASUTYN: The third item of 24 25 business we have this evening --

1	MATRIX/DIBRIZZI 10
2	UNIDENTIFIED SPEAKER: Excuse me. Is
3	there an opportunity
4	CHAIRMAN EWASUTYN: This is not a
5	public hearing. It's not open to the public.
6	UNIDENTIFIED SPEAKER: I have a
7	letter
8	CHAIRMAN EWASUTYN: You can drop it off
9	at the Planning Board office tomorrow or the
10	Building Department.
11	UNIDENTIFIED SPEAKER: This is
12	CHAIRMAN EWASUTYN: Understood.
13	Understood.
14	UNIDENTIFIED SPEAKER: the City of
15	Newburgh
16	MR. DONNELLY: We talked about it.
17	UNIDENTIFIED SPEAKER: Yes, I know.
18	There's an additional one.
19	CHAIRMAN EWASUTYN: You can leave them
20	at the Building Department window tomorrow.
21	UNIDENTIFIED SPEAKER: Can I leave them
22	with the secretary tonight?
23	MR. HINES: If you can find a
24	secretary.
25	CHAIRMAN EWASUTYN: I am the secretary.

1	MATRIX/DIBRIZZI
2	UNIDENTIFIED SPEAKER: I'm sorry.
3	CHAIRMAN EWASUTYN: You can't judge a
4	book by it's cover. Some people find me to be
5	attractive, but that's neither here nor there.
6	Thank you.
7	
8	(Time noted: 7:35 p.m.)
9	
10	CERTIFICATION
11	
12	I, Michelle Conero, a Shorthand
13	Reporter and Notary Public within and for
14	the State of New York, do hereby certify
15	that I recorded stenographically the
16	proceedings herein at the time and place
17	noted in the heading hereof, and that the
18	foregoing is an accurate and complete
19	transcript of same to the best of my
20	knowledge and belief.
21	
22	Mechaeli Conero
23	
24	DATED: September 11, 2015
25	



# McGOEY, HAUSER and EDSALL CONSULTING ENGINEERS D.P.C.

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## TOWN OF NEWBURGH PLANNING BOARD TECHNICAL REVIEW COMMENTS

PROJECT:MATRIX / DIBRIZZI LOT LINE CHANGEPROJECT NO.:15-20PROJECT LOCATION:SECTION 95, BLOCK 1, LOTS 4.12, 54.1, 69.25 & 49.12REVIEW DATE:14 AUGUST 2015MEETING DATE:20 AUGUST 2015PROJECT REPRESENTATIVE:LANGAN ENGINEERING

- 1. Town of Newburgh plan approval box can have Town Engineer's name removed. Only Planning Board Chair will sign maps.
- 2. Project is located in the City of Newburgh's Washington Lake watershed, a Class A Stream. Storm Water Management for future projects must address this, typically requiring 110% of the water quality volume being treated prior to discharge to surface water.
- 3. Access to the 71.72 acre resulting in parcel appears to have environmental constraints regarding existing detention pond off of Corporate Boulevard and potential federal jurisdictional wetlands off of Route 17K. These must be taken into account by any future development.
- 4. Front yard setback is 60 feet in depth, along County and State Highways in accordance with Section 185-18C(4)(c). This section all has requirements of landscape buffer on 35 feet of all properties fronting on Route 17K.

Respectfully submitted,

McGoey, Hauser and Edsall Consulting Engineers, D.P.C.

Patrick J. Hines Principal

• Regional Office • 111 Wheatfield Drive • Suite 1 • Milford, Pennsylvania 18337 • 570-296-2765 •



July 17, 2015

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John P. Ewasutyn, Chairman Town of Newburgh Planning Board 308 Gardnertown Road Newburgh, NY 12550

# Re: Lot Owner's Consent - Matrix/Dibrizzi Lot Line Change Application Section 95, Block 1 Lot 49.12

## Dear Chairman Ewasutyn:

We are the title owners of Lot 49.12 (Section 95, Block 1) located on Route 17K in the Town of Newburgh. This lot is one of four existing lots to be reconfigured as part of the lot line change application being filed with the Planning Board by Matrix Newburgh I, LLC.

We have reviewed the lot line change plans prepared by Langan Engineering, dated July 17, 2015 and we hereby consent to the filing of this application.

Very truly yours,

ANGELA DIBRIZZI

As Trustee under the Trust created pursuant to Article Third under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a forty percent (40%) interest

## NICOLAS C. DIBRIZZI

As Trustee under the Trust created pursuant to Article Third under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a forty percent (40%) interest

### **ELISA DIBRIZZI**

As Trustee under the Trust created pursuant to Article Third under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a forty percent (40%) interest



As Trustee under the Trust created pursuant to Article Third under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a forty percent (40%) interest

#### ANGELA DIBRIZZI

Tupela bibyzze

As Trustee under the Trust created pursuant to Article Fourth under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a sixty percent (60%) interest

#### NICOLAS C. DIBRIZZI

As Trustee under the Trust created pursuant to Article Fourth under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a sixty percent (60%) interest

### ELISA DIBRIZZI

As Trustee under the Trust created pursuant to Article Fourth under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a sixty percent (60%) interest

Bare SERENA RUSSU

As Trustee under the Trust created pursuant to Article Fourth under the Last Will and Testament of Cosimo Dibrizzi, dated March 7, 1994, as to a sixty percent (60%) interest



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# Dickover, Donnelly & Donovan, LLP Attorneys and Counselors at Law

David A. Donovan Michael H. Donnelly Robert J. Dickover 28 Bruen Place P.O. Box 610 Goshen, NY 10924 Phone (845) 294-9447 Fax (845) 294-6553 (Nat for Service of Process)

James G. Sweeney, P.C., of Counsel

James B. Biagi, of Counsel

<u>Successor Law Firm To:</u> Alexander Appelbaum, P.C., Florida, N.Y. (1915-1988) Ludmerer & Vurno, Esqs., Warwick, N.Y.

September 1, 2015

Richard Harper, AICP, Chairman City of Newburgh Conservation Advisory Council 123 Grand Street Newburgh, NY 12550

RE: Matrix Lot Line Change Application

Dear Mr. Harper:

I write to you as the attorney for the Town of Newburgh Planning Board. I have been given a copy of your letter to the planning board dated August 20, 2015 and have been asked to respond to it. I enclose a copy of my letter to the City Manager in which similar concerns were raised and responded to. As with the city itself, we invite your comments at such time as a site plan application is submitted to the Town of Newburgh Planning Board.

Very truly yours,

MICHAEL H. DONNELLY

MHD/lrm

Enclosure

cc: Town of Newburgh Planning Board Town of Newburgh Town Board Mark Taylor, Esq. David R. Everett, Esq.

# Dickover, Donnelly & Donovan, LLP Attorneys and Counselors at Law

David A. Donovan Michael H. Donnelly Robert J. Dickover

James G. Sweeney, P.C., of Counsel

James B. Biagi, of Counsel

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September 1, 2015

Michael G. Ciaravino, City Manager City of Newburgh City Hall 83 Broadway Newburgh, NY 12550

RE: Matrix Lot Line Change Application

#### Dear Mr. Ciaravino:

I am the attorney for the Town of Newburgh Planning Board. I have been asked to respond to your letter of August 20, 2015 in regard to the above referenced lot line change application. You have informed the planning board that, in addition to the lot line change application, one of the property owners will apply for site plan approval in the future. We have no reason to doubt this assertion but have no direct knowledge of it. As a result of the specter of this potential development you have asked the planning board to classify the project as a Type I action under SEQRA and to withhold acting on the lot line change application until SEQRA is closed out. You also inform us that it is your view that a referral to the Orange County Planning Board Department under GML §239 is required here. Let me respond to your assertions.

Section 100-12(A)(9) of the Town of Newburgh Code classifies a lot line change as a Type II action under SEQRA. This classification is carried forth into Section 163-12.1(J) [Lot line changes] of the Newburgh code. This *typing* is consistent with Section 617.5 [Type II Actions], subparagraph (c)(21) as a preliminary planning approval that does not commit the Town of Newburgh to approve the action. The planning board is comfortable with its code scheme and sees no reason to elect to classify this action as Type I.

Section 163-12.1(A) makes clear that approval of a lot line change "does not require

subdivision approval." Thus, because subdivision approval is not involved, there is no requirement of a referral to the Orange County Planning Department under General Municipal Law §239.

Lastly, you have raised legitimate concerns regarding how stormwater will be handled on this site given that it is tributary to Washington Lake, the city's drinking water reservoir. The planning board is well aware of this issue and, as you are aware, routinely imposes protective requirements beyond those required by the DEC regulations upon developers in this area. When a site plan application is submitted to the planning board the board will thoroughly review the stormwater plan and will invite your comments at that time.

Very truly yours,

MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board Town of Newburgh Town Board Mark Taylor, Esq. David R. Everett, Esq.

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## TOWN OF NEWBURGH PLANNING BOARD TECHNICAL REVIEW COMMENTS

PROJECT:MATRIX / DIBRIZZI LOT IPROJECT NO.:15-20PROJECT LOCATION:SECTION 95, BLOCK 1, IREVIEW DATE:1 SEPTEMBER 2015MEETING DATE:3 SEPTEMBER 2015PROJECT REPRESENTATIVE:LANGAN ENGINEERING

MATRIX / DIBRIZZI LOT LINE CHANGE 15-20 SECTION 95, BLOCK 1, LOTS 4.12, 54.1, 69.25 & 49.12 1 SEPTEMBER 2015 3 SEPTEMBER 2015 LANGAN ENGINEERING

- 1. The Applicant's Representative has provided an affidavit of mailing of the required Adjoiner's Notice.
- 2. In accordance with Town of Newburgh code lot lines do not require a Public Hearing and are identified as Type 2 actions under SEQRA.
- 3. Plans have been revised to reflect our review comments of 14 August 2015.

Respectfully submitted,

McGoey, Hauser and Edsall Consulting Engineers, D.P.C.

Patrick J. Hines Principal

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Member



