

October 14, 2009

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TOWN OF NEW WINDSOR

PLANNING BOARD

OCTOBER 14, 2009

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HOWARD BROWN
DANIEL GALLAGHER
HENRY SCHEIBLE

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

NICOLE JULIAN
PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HENRY VAN LEEUWEN

REGULAR_MEETING

MR. ARGENIO: Would everybody please rise for the
Pledge of Allegiance?

(Whereupon, the Pledge of Allegiance was
recited.)

MR. ARGENIO: I'd like to welcome everybody to the

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October 14 regular meeting of the Town of New Windsor Planning Board. Franny, if you're ready, we're going to get started, we'll get right down to business.

APPROVAL_OF_MINUTES_DATED_AUGUST_19,_2009

MR. ARGENIO: If anybody sees fit, I'll accept a motion that we approve the minutes for August 19, 2009 as written.

MR. BROWN: Make that motion.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we accept the minutes of August 19, 2009 planning board minutes, except them as written. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: One thing for the minutes, Mr. Van Leeuwen called in, he's not here tonight. As such, I have asked Mr. Scheible to join me up here in Mr. Van Leeuwen's stead.

ANNUAL_MOBILE_HOME_PARK_REVIEW:

WINDSOR_HEIGHTS_MOBILE_HOME_PARK

MR. ARGENIO: First on tonight's agenda is annual mobile home park review and the first park is Windsor Heights Mobile Home Park. Is somebody here to represent this. What's your name?

MR. TASSER: Joel Tasser (phonetic), I'm the property manager for Windsor Heights.

MR. ARGENIO: Jennifer, has somebody from your office been out there to take a look around, see how it is?

MRS. GALLAGHER: Yes, Mr. Chairman, and everything's fine.

MR. ARGENIO: That's great to hear. Did you bring a check for the benefit of the Town of New Windsor for \$250?

MR. TASSER: Yes.

MR. ARGENIO: If anybody sees fit, I'll accept a motion for one year extension of the permit to operate.

MR. BROWN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made by Howard, seconded by Neil that we offer one year extension. I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE

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MR. SCHEIBLE AYE
MR. ARGENIO AYE

MR. TASSER: Thank you.

MR. ARGENIO: Thank you for coming in and I'm glad you're keeping a nice place there, we've had some issues in the past with some other areas around town so it's a good thing.

HILL & DALE MOBILE HOME PARK

MR. ARGENIO: Next is Hill & Dale Mobile Home Park. Somebody here to represent? Can I have your name and address for the benefit of the stenographer?

MR. HERSHEL: Joe Hershel, 25 North Emerald Drive, Rock Hill, New York 12775.

MR. ARGENIO: Rock Hill, huh?

MR. HERSHEL: Sullivan County.

MR. ARGENIO: That's God's country. Jennifer, has somebody from your office been out to see those folks?

MRS. GALLAGHER: Yes, and it was also fine.

MR. ARGENIO: Wow, that's fantastic. Anybody sees fit, I'll accept--did you bring a check for the benefit of the Town of New Windsor for \$250?

MR. HERSHEL: Yes.

MR. ARGENIO: Tonight's your lucky night. If anybody sees fit, I'll accept a motion that we offer one year extension on the permit to operate.

MR. BROWN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded by Mr. Schlesinger, motion made by Mr. Brown, motion seconded by Mr. Schlesinger that we offer one year extension. If there's no further discussion from the board members, roll call.

ROLL CALL

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MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

PUBLIC HEARINGS:

SONIC_DRIVE-IN_SITE_PLAN_(09-25)

MR. ARGENIO: Tonight we have a public hearing for the Sonic proposed Sonic restaurant on Route 300 over near Wal-Mart. This application proposes a drive-in type restaurant facility on the existing commercial lot adjacent to the Wal-Mart site, that's just south I believe from the Hudson Valley Federal Credit Union. The plan was previously reviewed at the 19 August, 2009 and 9 September, 2009 planning board meetings. The application is before the board for a public hearing at this meeting. Sir, would you turn that easel towards the board members? What we're going to do tonight is just bring us up to speed please if you would and would the owner come up too please because we may have some questions for him. Tell us, give us an update on the changes you've made on the plans, I understand you're at zoning, please tell us that as well and then after that we'll open it to the public and we'll have a public hearing. If anybody wants to speak, they'll be given the opportunity to speak and then we'll get it back to the board members. So that said, go ahead.

MR. KOEHLER: Dan Koehler with Hudson Land Design, engineer for the applicant. Most of the changes we made were based on Mr. Edsall's letter regarding some plan, cleaning up just some call-outs for the curbing and also we did make a few minor changes regarding the signage. We have a different facade sign proposed which we brought to the zoning board last month and at that meeting, they scheduled us to be heard again October 26 for a decision regarding that and also regarding the menu boards that are located--

MR. ARGENIO: So tell me about the zoning board, tell me about it.

MR. KOEHLER: I thought it went very well, we basically

just explained how the operation has no indoor seating and how in order for us to operate we need the menu board for this being our restaurant actually in the parking lot. And I thought that the, my take on it was that they had a positive feeling.

MR. ARGENIO: So they didn't give you a decision?

MR. KOEHLER: No, they had to schedule public hearing and do the decision at the October 26 meeting.

MR. SLATER: The town's code allows for the sign to be no taller than 30 inches and no more than 25 square feet, our sign because it's irregularly shaped is no more than 25 square feet but in one portion at the very far right corner is greater than 30 inches so they have scheduled that for a public hearing a week from Monday and I believe it's for interpretation regarding the menu housings. And they inquired as to how the other towns, Kingston and Wappingers, had handled it. We informed them that in both instances they were deemed to be menus, not signs.

MR. ARGENIO: If I just could Mark or Dominic, whoever chimes in first? Typically, I'm not on the zoning board, typically are they obligated to have a public hearing on everything they see or do they have the subjectivity to have it on select items?

MR. CORDISCO: There's a public hearing required on all applications.

MR. ARGENIO: So do they not set that up at the meeting when the applicant comes in or do they do like similar to the planning board?

MR. CORDISCO: My understanding it's scheduled for their October 26 meeting.

MR. ARGENIO: So you have not been to the ZBA?

MR. SLATER: We had a meeting I believe it was two weeks ago, they did a preliminary like a workshop meeting, it's formal like we're all here tonight but it's, they hear out the issues, gives them time to sort of mull it over, they schedule the public hearing at that time.

MR. ARGENIO: That makes sense, if they need advice from counsel, give them time.

MR. EDSALL: They deem the application adequate for the public hearing.

MR. CORDISCO: That way at least the notice provisions as far as the public hearing is concerned is accurate and reflects what application is actually before the board.

MR. ARGENIO: Tell us about the menu boards, where did that go as far as it relates to the zoning board?

MR. KOEHLER: They actually, my take was that they understood that we need it for our operation. And then they had also mentioned what the planning board thinks of that and we had said that our consensus on this board was that you took it the same way that it was a required element for our operation and this allowed us to move forward. They didn't decide yet if it was going to be a variance that would actually have to be granted for what they would call freestanding sign or if they would just interpret it as being a menu for our operation and that didn't require a variance.

MR. SLATER: We did point out that at prior planning board meetings that you had gone around to each of the members and then asked your own opinions and put on the record what they were and they did seem to imply that they were going to go back and check with your board to confirm that we were giving them the accurate feeling

of this board.

MR. SCHLESINGER: As a matter of procedure being that you went to the zoning board nothing was determined, you're scheduled for a public hearing. Now you're back here, wouldn't it have been prudent if they came back here before they got a determination, they came back here after they got a determination from the zoning board?

MR. EDSALL: The reasoning was that they, you had told them you weren't sure if you were going to have a public hearing. For expediency of their process, they said we have no objection to having the public hearing with the planning board either way so let's just let the planning board move forward as far as they can and wait for the Zoning Board decision.

MR. ARGENIO: What I'd like to do is, what I'd like to propose, do you have anything else significant you want to point out about the plans that has changed?

MR. KOEHLER: No.

MR. ARGENIO: I'd like to roll into the public hearing, if there's any comments, I'd like to receive them and then we'll get back. Do you have a notice of public hearing?

MS. JULIAN: Yes.

MR. ARGENIO: On the 2nd day of October, Nicole compared four addressed envelopes containing notice of public hearing with a list provided by the assessor's office regarding the above application. She found that the addresses that she produced were identical to the list that she received and then she mailed the notices out. If there's anybody here this evening that would like to speak for or against or comment on this application, please raise your hand, be recognized and

you'll be afforded that opportunity to speak.

MR. GALLAGHER: Motion we close the public hearing.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded we close the public hearing for Sonic site plan.

MR. CORDISCO: If I may, before the board takes action on closing the public hearing, there's a 62 day default time period to make a decision on the application because you still have to go before the zoning board and you have your public hearing there. I understand that you have it scheduled for October 26 but in terms of timing, that 62 days could elapse and we would be under that timeframe I would ask that the applicant waive that 62 day timeframe in consideration of your closing the public hearing because there's the zoning board issue that's outstanding.

MR. SLATER: I'm not sure I understand.

MR. CORDISCO: There's a 62 day time period that the board has to make a decision but this board legally cannot make that decision because you don't have your variance yet. So what I'm asking is is that and my recommendation to this board would be not to close the public hearing, however, if you're willing to waive that 62 day time period then I think the board could close that public hearing because then there's no clock ticking.

MR. ARGENIO: This is legalese but it's necessary.

MR. SLATER: Okay.

MR. CORDISCO: Just as long as you acknowledge on the record.

MR. SLATER: Yes, we acknowledge and we'll waive the 62 day period.

MR. ARGENIO: It's not a big deal.

MR. KOEHLER: No, no.

MR. ARGENIO: It certainly is necessary for procedural purposes. Motion has been made and seconded that we close the public hearing. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Okay, guys, I just wanted to get, I didn't expect anybody in the audience to have a comment based on what I see here but I wanted to get that behind us. So, okay, so I have a question. Can from what I can see here and what I understand from Mark plans are in a pretty good shape, they're at a substantial level of fitness where you have done almost all the things that Mark has asked you to do. I want to read this, assigned 911 number is not on the plans, now it's on the plans, okay. For the benefit of the members, Mark, I went through this, do you have a copy of the letter from Garling the town engineer and planner, do you have that in your possession?

MR. EDSALL: I'm sure I have it, I don't know if I have it handy.

MR. ARGENIO: Would you give this to Mark and I'm going to hit some high points and if you want to add something we have our ears open. For the benefit of the members, we sent this to the Town of Newburgh

because we're so close to them which is standard practice and they had a number of pretty brief comments, the first one and Mark interrupt me if you have something to add, Danny, the first one was they would request the use of landscape architect. Well, we don't typically use a landscape architect in New Windsor so the directive that was given to the applicant was you really need to make your best efforts to match the landscaping that's at the credit union and they have done that, Mark, right?

MR. EDSALL: Yes, in fact, I provided them with a copy of the Hudson Valley Federal Credit Union plan for the exclusive purpose of coordinating landscaping and they did so on the plan.

MR. ARGENIO: So we saved you guys money there, you don't need to be hiring unnecessary professionals. The architecture of the building should be reviewed closely by the Town of New Windsor Planning Board, we're not an architectural review board but we did have a discussion about that at one meeting actually and he talked about it. What did we talk about, did we talk about the cultured stone or brick matching the credit union or something of that nature?

MR. SLATER: You asked us to, we showed you which we can show you again a rendering that was stone and stucco even though we were proposing brick and stucco, the board asked we use the stone and we agree.

MR. ARGENIO: Cause it matches more similarly to the existing buildings that are there?

MR. SLATER: The existing building the brick would match the existing building closer but I think the board felt that this was far enough away and would add another nice feature, I know that once you saw this rendering I think--

MR. ARGENIO: We're happy that the one is that the one Neil we were happy with with what they showed?

MR. SCHLESINGER: The applicant said that they had a choice if I can use that word of two finishes, one was the stone, one was the brick and I think that it was our suggestion and the bank is finished with brick, right, and I thought that we wanted it to be in continuation.

MR. BROWN: No, we wanted to break it up.

MR. ARGENIO: I think you're right, Howard, I think Howard's right, Neil.

MR. EDSALL: I think what you had was the board considered both options and said that you didn't want it to look identical like row houses that you wanted some diversity, however, the Town of Newburgh's opinion seems that they'd rather have the uniformity so that's your choice.

MR. SLATER: You know, the stucco portion is going to to the extent that it is on the other buildings which can match I think with a--

MR. ARGENIO: So there's your matching piece.

MR. SLATER: You've got some pine trees and a bunch of other significant plantings and I remember at that meeting that you felt that having that the stone was not a material that was going to clash with the other materials out there. I just know that the reaction to the stone and stucco building versus the picture of the current buildings when are brick and stone the reaction was better.

MR. ARGENIO: Do you, are you okay with that?

MR. GALLAGHER: Yes.

MR. ARGENIO: How about you?

MR. SCHEIBLE: I look at them as cookie cutter buildings, when you travel down south, you see them up and down the roads down south. I have no problem with what I see here right now.

MR. SLATER: They're usually all stucco prototypical, actually, a block and stucco building, we're okay with either the brick or the stone.

MR. ARGENIO: I think we're heading that way.

MR. SCHLESINGER: The stone to me is a little bit more revolutionary in this area, that's fine.

MR. BROWN: I like it.

MR. ARGENIO: I'm okay with it too, I think it's good. Moving on for the Town of Newburgh's commentary, they have asked us to talk about the traffic and it seems to me unless I'm wrong, Mark, when the original parcel was contemplated when they did the Home Depot work some calculation must have been done for this parcel for traffic, no?

MR. EDSALL: When the Wal-Mart EIS was completed, it took into account full development, I believe it considered three lots up front, three different businesses, in fact, it ends up only being two businesses, Hudson Valley Federal Credit Union and this proposed Sonic. So I think the, the total number of trip generations probably is equivalent or could even be less. The other thing to keep in mind there have been historic problems and they referenced the New Jersey site and that particular Sonic was a problem but that had drive curb cuts right to Route 17 which we all know Route 17 is a challenge in itself. This accesses internally which buffers impact on the highway,

effectively, if there's any backup it will be on the internal road network which makes it much less of an impact on the public roadways.

MR. SCHEIBLE: It's also controlled by traffic lights.

MR. EDSALL: And it's removed.

MR. ARGENIO: Any of the other members please chime in if you have any thoughts here.

MR. GALLAGHER: Didn't they upgrade the direction of the traffic when we re-did the bank?

MR. EDSALL: There was tremendous improvements.

MR. ARGENIO: Yes, they did.

MR. EDSALL: As I said, there was a third proposed in the front and that is not going to happen now with the full buildout only including two businesses.

MR. ARGENIO: I'm going to throw something out. You guys have been very responsive, more responsive than most but I want to throw this thought out there and Mark I'd like to hear from you on this as well. One question I'd like to ask is there any consideration or do you think, does any of you guys think that there's any issue pedestrians or people walking about that may have children that will wander out onto 300? It may be a non-issue because as the gentleman pointed out the people come in in their cars and they read the menu board and the bell hop for lack of a proper term brings the food out. So there shouldn't be people walking about. But there's a bit of outdoor seating there. And the reason I ask the question is I live out near Weir's and when my kids were little, one of my kids bolted up towards 94, didn't make it passed the guardrail but bolted up to 94. So I'm putting it out there, I'm listening.

MR. BROWN: I think there's a bigger buffer zone here than there is at Weir's going to 94.

MR. ARGENIO: Much bigger, much bigger.

MR. EDSALL: There's roughly about 120 feet from their lanes to the our curb line to the state highway, it's quite a bit of a buffer and again because there's not the normal business operation being people getting out of cars and going inside.

MR. ARGENIO: You don't have the level of pedestrian traffic.

MR. EDSALL: Other than the restrooms and outside seating and 120 foot is a substantial setback.

MR. SLATER: Mark, that 120 feet is at the closest point but the patio would be another hundred plus feet.

MR. EDSALL: I'm looking at curb line to closest point of the site development to the curb of the highway's well over 100 feet.

MR. ARGENIO: I'm good with it, just wanted to put it out there in case somebody had a thought on it. For the record, we have received the Town of Newburgh's concerns and we have addressed them. Mark or Dominic, do we need to formalize that in any fashion addressing the town's, I don't think so, right?

MR. CORDISCO: You don't have to respond, just you gave them the courtesy of an opportunity to comment.

MR. EDSALL: Mr. Chairman, just for the record, I think to note that the comments that you're reviewing were the comments from the town planning board which were as a result of the courtesy referral, the referral that was made in accordance with 239 (n) (n), goes to the

Town Clerk which is the way the law's written, we did not receive any response.

MR. ARGENIO: Dominic can help we with the procedural things we need to do to go forward, we have not heard from zoning so we're going to wait for zoning, right?

MR. CORDISCO: Correct.

MR. ARGENIO: What else do you want from us tonight?

MR. KOEHLER: We were going to ask if we can do conditional based on the decision from the zoning board.

MR. ARGENIO: It's not going to happen but I think you get the flavor of where this is headed, you guys are in pretty good shape.

MR. SLATER: Procedurally, what would happen if the zoning board meeting hearing is a week from Monday and assuming that goes well and what just gets referred back to you.

MR. ARGENIO: It does and I think the next, to push this over the top, unless something else reveals itself, I'm not going to say it's a formality but--

MR. SLATER: Is it going to require another meeting?

MR. CORDISCO: Yes.

MR. ARGENIO: We'll require another meeting.

MR. KOEHLER: For here, not for the zoning board.

MR. CORDISCO: And there's the two meetings in November.

MS. JULIAN: There's one.

MR. EDSALL: You could request to be on the 28th agenda in anticipation of a decision from the Zoning Board.

MR. KOEHLER: Right, if we can do that, that would be great.

MR. SLATER: You guys have been really great expediting this but we have a little issue with Wal-Mart that we're juggling.

MR. ARGENIO: I don't think there's such a thing as a little issue with Wal-Mart.

MR. SLATER: They have been fair, if you can accommodate us that would be much appreciated.

MR. ARGENIO: Great. Why don't you get with Nicole.

MR. EDSALL: The two comments I had just so that you reinforce the difficulties although it seems rather specific on the plan, we need to call out concrete curb because we've had some applicants who seem to not understand if you have a concrete curb detail--

MR. ARGENIO: Let the record reflect that I'm chuckling, yes, so call it out as concrete curb.

MR. EDSALL: The other one I think you'll find that the two sign designations are reverses. Other than that, Mr. Chairman, too extremely minor corrections, they have done everything we've asked.

MR. ARGENIO: Thank you for coming in.

MR. SLATER: Thank you.

MR. KOEHLER: Thank you.

REGULAR_ITEMS:

VERIZON_WIRELESS_(09-23)

MR. ARGENIO: Regular items, Verizon Wireless, Toleman Road. Okay, can I please have your name and the firm you're with for the benefit of the stenographer?

MR. ROHDE: You certainly may, Clifford Rohde with the law firm of Cooper, Erving & Savage.

MR. ARGENIO: This application proposes new antenna facilities on the existing cell tower at the site as well as a new equipment structure at the base. The plan was previously reviewed at the 19 August planning board meeting. And if everybody remembers or they don't remember I'll refresh your memory. At the meeting, I think that while we all would rather see the cell tower probably located somewhere else, in the back, well, off the highway in the woods some such thing the cell tower is there and the installation of these proposed antennas are a fairly innocuous change on the tower itself. I think at the last meeting we were darn close to being able to put this thing over the wire because of how minimal the impact was here with this. No new tower, the new antennas are going to be below the top of the tower below the other antennas and the thing that held us up was the fact that anything within 500 feet of the state highway has to go to the county. So I assume you've gone to the county, actually, I know you went to the county, they said local determination. What say you this evening?

MR. ROHDE: Well, I'm hoping that the board will approve the project.

MR. ARGENIO: Nothing else to add?

MR. ROHDE: Well, sure.

MR. ARGENIO: Nor do I and I'm not looking for you to talk unnecessarily.

MR. ROHDE: Well, I don't have, you know, well, maybe a couple points to add to your summary, absolutely agree with what you've said. My recollection of the August 19 meeting was that Mr. Edsall found the application to be complete and indicated that to the board, there was that issue about what the telecom law or provisions of the zoning code say about process and it was the board's determination appropriate I think that this was site plan review only. And at that meeting, the board determined within its discretion that it did not need to hold a public hearing on this matter so that brings us to today.

MR. ARGENIO: Well, as I said, certainly would be better if the tower were up on a hill somewhere but it's not and the decision of a couple little antennas on there I don't think is going to make a big difference. Anything else? Am I missing anything Mark?

MR. EDSALL: No.

MR. ARGENIO: If anybody sees fit, motion we declare negative dec.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare negative dec for Verizon.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE

MR. SCHEIBLE AYE
MR. ARGENIO AYE

MR. CORDISCO: What the board is doing effectively is authorizing me to prepare resolutions for the chairman's signature.

MR. ARGENIO: That's correct.

MR. CORDISCO: That will happen, so you have formal resolutions with your negative dec and approval.

MR. ROHDE: Okay.

MR. ARGENIO: Motion for final approval.

MR. SCHEIBLE: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded for final approval for the Verizon Wireless proposed new antenna on existing town plus new equipment building on Toleman Road.

ROLL CALL

MR. SCHLESINGER AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. SCHEIBLE AYE
MR. ARGENIO AYE

MR. ARGENIO: Thank you sir for coming in.

MR. ROHDE: Thank you very much.

PATRIOT_BLUFF_DEVELOPMENT_SUBDIVISION_(01-66)

MR. ARGENIO: Patriot Bluff development subdivision. The application involves subdivision of the existing lands to create 40 single family residential lots on 25.72 acres.

MR. EDSALL: Mr. Chairman, I have to apologize for the intro being from an old application version of 01-66, this is actually the zero lot lines being created for the multi-family so I apologize for that being carried over.

MR. ARGENIO: Would you please read the description?

MR. EDSALL: The description that's on the plan is wrong or on the review comments is wrong relative to the plan that's currently before the board.

MR. ARGENIO: It's my understanding that this is the description of this should be something close to or exactly like this for the property subdivision that will create the lots that the condos will sit upon that. Pretty close, Greg?

MR. SHAW: Yes, just get rid of the word condos, we're creating 178 lots, okay, on 55 acres and the housing units which will sit on the lots will be attached and semi-attached.

MR. ARGENIO: Attached to the lot, okay, there's the description. Greg, please share with the board a little bit if you would be so kind.

MR. SHAW: I will just give a thumbnail on this because we have spent close to a decade on this project. The original application was submitted back in 2001 for this parcel of land. In March of 2004, we had a public hearing and upon which it was quite animated and the board at that time determined that they wanted to have

a Supplemental Environmental Impact Statement because the environmental review which was done with the special permit back in 1990, 1991 needed to have some issues upgraded. So we did that and we submitted that Draft Supplemental Environmental Impact Statement to the board and the board determined that it was complete in November of 2008. Following that, we had a public hearing on the site plan, the subdivision and the supplemental document in December of 2008. In August of this year, two months ago the board determined, the board granted environmental negative declaration for the project. So with those major hurdles behind us, the next step is to request preliminary subdivision approval from this board for this project in front of you to allow us to go off to the health department and the DEC for the water and sewer main extensions for the project and that's what we're here tonight to ask for preliminary subdivision approval.

MR. ARGENIO: Mark or Dominic, are there any problems with this? Have you conducted a thorough review of this and it's in conformance with the PUD and the EIS, et cetera, et cetera?

MR. EDSALL: Yes, and in fact the reason why I wasn't prepared to recommend that you act on the preliminary approval at which time you would review it previously is I wanted to just make sure that relative to the lot sizes there was consistency with the prior reviews and in fact, Mr. Shaw and I have gone through all the old EIS documents, the findings and the flexibility was granted to the planning board in the prior Town Board determinations under SEQRA that there was no minimum lot size mandated, basically an issue of health, fire, safety function before you and that you're reviewing as part of the site plan. So after Greg and you were able to go through all the documents, I feel comfortable now that the subdivision as proposed to overlay the site plan is acceptable.

MR. CORDISCO: Mr. Chairman, this would be preliminary approval, this is not final approval so the subdivision itself is not being created. The board has previously satisfied its requirements and this would enable the applicant to go off and get their outside agency approvals and come back to us for final approval.

MR. ARGENIO: Of the site plan.

MR. EDSALL: And subdivision.

MR. CORDISCO: And subdivision at this point there is no--

MR. ARGENIO: I'm sorry, I misspoke of the subdivision is what I meant to say, of the subdivision.

MR. CORDISCO: And when they come back, it will be final subdivision and site plan approval.

MR. ARGENIO: Guys? I certainly am familiar with this, I've lived it.

MR. SCHLESINGER: Greg, 178 lots, 55 acres condos?

MR. SHAW: No, fee simple at this point.

MR. CORDISCO: That's why it's a subdivision.

MR. SHAW: You buy a piece of land and the house is on it and the fact that it's just attached to the adjacent house with zero lot lines but it's a lot fee simple.

MR. EDSALL: One issue to remember that the applicant ultimately has the option that if they care not to pursue based on market conditions the subdivision, the site plan could still stand on its own so it works either way.

MR. CORDISCO: And in either event there will be a

homeowners' association that takes care of the common areas so that, cause what Greg is discussing is zero lot line subdivision where basically the wall, you know, is the lot line but there's going to be common areas, those common areas have to be maintained by one organization so that things don't fall into disrepair.

MR. ARGENIO: Do we have a precedent, is there a precedent for this around town?

MR. EDSALL: For this type of application there have been from years passed similar type applications, not one recently, any difficulties we've had with them in the past was lack of what I would call appropriate control and coordination of the actual construction to the lot lines. In 2009, there's much better control but again, I think they're looking for flexibility so they can run the project either way.

MR. SHAW: To the best of my knowledge, this is the only PUD in the Town of New Windsor.

MR. ARGENIO: I'm sure you're right.

MR. EDSALL: That's absolute.

MR. ARGENIO: Anybody else? Certainly there will be a thorough review when site plan time comes but this is not for this subdivision, it's the first step.

MR. CORDISCO: And the time to actually impose those conditions, you know, to make sure that the controls are in place would be then rather than now. Now, the only condition on preliminary approval and of course we'll draft a resolution for that, but the preliminary approval, the only condition would be is that before they return they have to go off and obtain their outside agency approvals.

MR. ARGENIO: Obviously.

MR. CORDISCO: Which is the whole purpose of granting it in the first place.

MR. ARGENIO: Motion we grant preliminary approval to Patriot Estates major subdivision.

MR. SCHLESINGER: Motion made.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we grant preliminary approval to the Patriot Estates subdivision. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. SHAW: Thank you.

WINDSOR_GATE_PLAZA_(05-29)

MR. ARGENIO: Next regular item is Windsor Gate Plaza. This application involves 9,890 square foot two story addition to the existing 7,544 square foot two story commercial building. I'll just give you guys a brief, we approved this a while back, I don't know how far back, this is the parcel if you go from Five Corners on 94 west out towards Weir's, you go under the Thruway it's on the right-hand side, I think it's a, they want to revisit this and for whatever reason, I don't know what the reason is, but it would be nice to have the site spruced up and cleaned up and have it on the tax rolls, so they wanted to come in for a re-up as they say and Mark looked at the plan and thought about it and sniffed it and scratched it and did what he does and some of the laws have changed since their last approval, DEC laws and regulations and different thresholds, so that's why you're here tonight to talk about that, is that right? Am I close to right?

MR. CAPPELLI: Very, very close.

MR. ARGENIO: Share with us a little bit, what else have I missed?

MR. CAPPELLI: Nothing really. I'm Alfred Cappelli, the architect. Project was approved back in 2006 by this planning board by Taconic Consultants, I believe.

MR. ARGENIO: Do you guys recognize this? Do you know where I'm talking about?

MR. GALLAGHER: Yes.

MR. CAPPELLI: The site plan approval, it was given to me as the architect, I wasn't particularly satisfied with the parking arrangements if you remember but keeping the parameters and the perimeter of the curbed area, I redesigned the parking layout, we brought it to

this board in 2007 and it was subsequently approved again if you will, no changes to the drainage, no changes to the landscaping except we re-did some landscaping in the front. I have those plans here and there were really no issues. We came before you and you were very, you helped us out a lot. Subsequently to that obviously the market has sort of tanked, we have taken our time in terms of submitting for building permits and lo and behold, the time ran out. We want to now resurrect the project verbatim as it was approved in 2006 and subsequently 2007 with no changes whatsoever, be able to file for a building permit, hopefully start construction next year and hopefully be prepared for the market turnaround.

MR. ARGENIO: The onslaught of tenancy that you will have.

MR. CAPPELLI: Hopefully. And basically, that's the long and the short of it. Now, Mark had sent a memo about the SWPPP and I thought the SWPPP was required back in 2006, I don't do this, you know, every day the site planning portion of it, I know it wasn't required back then and I'm just wondering why it is required today if the law was in place back then and three years later.

MR. ARGENIO: Mark?

MR. CAPPELLI: Before we do anything, I want to make sure we're all on the same page, what we need to do and we'll get whatever we need to get to you.

MR. EDSALL: Storm water management with the state DEC is an ever evolving issue.

MR. ARGENIO: We certainly are well aware of that.

MR. EDSALL: And since your initial reviews first of all the town has now taken on additional burdens and

responsibilities as an MS4 community which means the state DEC imposes more control over the town, the town has a local storm water law which very well didn't exist when you first came in and as importantly DEC's clarified what they consider disturbance. There was lot of gray zone years ago so that when you had to determine if you were over or under an acre of disturbance there was a lot of ties to the rumor where developers could take areas that may not have counted as disturbance. Today, based on clarifications from DEC, a lot of the items that weren't considered disturbance are disturbance, clearly under 2009 regulations, the new general permit, the new town code, new interpretations from DEC and the fact that now the town is burdened with not only reviewing the SWPPPs on a local basis but also accepting them formally in writing and also when you close down a site formally accepting the sites, the DEC's really put a lot of burden on the town. Under today's standards you're well over an acre of disturbance, there's no gray zone for us now, so we have no choice but to say based on DEC's mandates, you need to prepare a SWPPP. So it's unfortunate, if you had gotten your plans stamped and approved in a timely fashion, you would have slipped under the radar, but unfortunately, you're on the radar now.

MR. CORDISCO: And the DEC's made it very clear that they expect the town to enforce these requirements and that if the town does not then the DEC will enforce against the town.

MR. ARGENIO: Understood. Is that clear with you?

MR. CAPPELLI: Absolutely, 100 percent. The plan was stamped and accepted but we understand it expired, that's correct, yes, understood. So I guess my issue is I didn't want to prepare the SWPPP if there were any other issues that the board had for whatever reason based on the previous layout and come to find that oh,

this is changed or that's changed. The issue is only the SWPPP and all we have to do is I don't want to say satisfy Mark, are there any planning issues, are there any other issues that are of concern that we can address simultaneously so we can get this thing wrapped up?

MR. ARGENIO: I'm not going to speak for all the other members, my vote varies just as much weight as one other vote with anybody else. But it would seem to me that that rendering, that's a pretty nice rendering and that as I said earlier that lot could use some sprucing up. Time to go around the room and this in no way should be interpreted as approval, tacit or otherwise, but it was a good project then I don't know why it wouldn't be new. Howard?

MR. SCHLESINGER: I don't remember the applicant but--

MR. ARGENIO: You don't remember this?

MR. SCHLESINGER: No, maybe it was before my time.

MR. ARGENIO: It was not. What was her name, Mark?

MR. EDSALL: Rhoda.

MR. CAPPELLI: Rhoda and her husband are sitting right there.

MR. SCHLESINGER: Is that, there's a little strip center there?

MR. ARGENIO: That's it. Look at the beautiful rendering.

MR. SCHLESINGER: That's why I didn't recognize it.

MR. CAPPELLI: I should of had it before.

MR. GALLAGHER: Definitely an improvement.

MR. SCHEIBLE: It's been a long time waiting.

MR. ARGENIO: So I guess the feedback you're getting here is that similar to when you, Mrs. Cianci, is that correct?

MRS. CIANCI: Yes.

MR. ARGENIO: Similar to before but we cannot waive state law, you have to meet state law.

MR. CAPPELLI: So procedurally lead me along, we're going to go on to another public hearing?

MR. EDSALL: Well, it's a site plan, the board in similar cases has re-processed the approval under the old project number, Mr. Chairman, throw a rock at me if I overstep my recollection here but they won't make you reapply, hit you with reapplication fees, you may pay an approval fee at the end.

MR. ARGENIO: As you would have paid three years ago, four years ago.

MR. EDSALL: So the bottom line is we'll work under the old application so that it's legal, we'll go through SEQRA and make the determination, they very well could waive the public hearing again and it might be a one stop visit, come back once the SWPPP's resolved and you you've done the improvements that you made to the plan after the original approval really worked out well.

MR. ARGENIO: I couldn't agree more.

MR. EDSALL: You made it much more functional so I think if you just get the SWPPP out of the way, you can come back in and you're done.

MR. ARGENIO: Is that the feedback you're looking for?

MR. CAPPELLI: Absolutely.

MR. ARGENIO: What else do you want from us?

MR. CAPPELLI: That's very good. Thank you for your time.

SCHLESINGERS_(09-28)

MR. ARGENIO: Next is Schlesingers site plan represented by Neil Schlesinger.

(Whereupon, Mr. Schlesinger stepped down from the board to present his proposal.)

MR. ARGENIO: The applicant proposes to enclose an existing patio at the rear of the restaurant seasonal event area, service bar. Plan was reviewed on a concept basis. Neil, do you have an architect?

MR. SCHLESINGER: Let me first say that for the record as we all know, I'm a member of the New Windsor Planning Board and at this point of the agenda, just want to recuse myself from being a member of the planning board. On the other hand, unfortunately, my engineer was unable to attend this evening at the last minute.

MR. ARGENIO: He canceled?

MR. SCHLESINGER: He canceled. We had hope we were going to be on the prior agenda and that didn't work out but whatever and I guess as being a businessman in the Town of New Windsor, hopefully I can address the application with the planning board as long as nobody objects.

MR. ARGENIO: Well, I'll tell you what, what I think is that who is the engineer on this?

MR. EDSALL: Lou Cascino.

MR. ARGENIO: Neil, why don't you give us a rundown on this and seems to me if you're here no matter what you want to do you have to go to county, yeah, number 5, you have to go to county because you're within 500 feet of the highway. But next time you come in could you

have somebody else, being consistent with the standards applied in the past, if you can have somebody else represent you that would be good.

MR. SCHLESINGER: No problem.

MR. ARGENIO: Tell me what we have.

MR. SCHLESINGER: The point is is that with the economic environment the way it is, I tried to come up with a plan to generate more revenue with the restaurant. Obviously, there's been quite a few new restaurants in the area and it doesn't help our situation. So I created an area in the back of the restaurant which some of you may be familiar with and what we have there is a patio area and a I'll call it a service bar and a stage and another seating area which is much like a bleacher type area that you'd see in a ballpark and it has anesthetic, you know, I think anesthetic charm to it. We have a little sand and some palm trees around and I think it's something that was necessary for me to do, as I said before, for economic reasons. We met with Mark and we addressed whatever comments Mark gave to us and I think, well, it was called to my attention that the fire department wanted us to address two other issues which I gave you a letter and those issues were that in the event of an electrical failure being that this is outside that we install some battery operated emergency lights for the egress areas which we absolutely agree with and we'll do and at the same time, we needed to designate no parking areas where the entrance is going to be.

MR. ARGENIO: Can I just read it to you, Neil, this is from the fire inspector. Emergency lighting throughout with emergency lighting from exit of the front of the building on south side. What does that mean, do you know?

MR. SCHLESINGER: I think I may be able to help with

that. It was recommended by the fire department that I created another exit area and that exit area goes around the side of the building in the event of an emergency, just an emergency exit.

MR. ARGENIO: To the south?

MR. EDSALL: On the south side of the building heading out towards Temple Hill.

MR. SCHLESINGER: Yes, that's correct, and there's an emergency sign up there, there's an emergency light up there but in the event of an electrical failure there is no lighting even though there's no lighting there, there's no battery operated electrical lighting, so he wants something in that area and also on the west side I believe in the back of the dining area even though it's illuminated now we want some battery operated light in there as well.

MR. ARGENIO: He talks about a tent, is there a tent?

MR. SCHLESINGER: Today there is no tent, there was a tent up, it was a temporary tent. I have at this point in the back of the restaurant there were a couple of trees that were removed and where the three of the trees were removed there's a swale which we're going to fill. In the event in the future if I want to put a tent there, I think it would be in code and I think one of the problems were is that it was too close to the building and but there's no tent there, it's been removed, it was there for temporary purposes. I don't have plans to use it again in the event that I do, I don't think that there will be a problem.

MR. ARGENIO: It certainly would need to meet code obviously and that would be an issue for you to deal with the building department, certainly not a planning board issue.

MR. SCHLESINGER: Mr. Chairman, let me also say which I should of said at the beginning, being a member of the planning board, I do not expect any preferential treatment, I don't want any preferential treatment, I want this to be in total compliance in every which way.

MR. ARGENIO: It certainly will be, and the reason we're on this board is cause we live in this town, some of us have businesses, some of us had businesses, but we have to be allowed to grow your business and you shouldn't be discriminated against or prevented from doing this.

MR. GALLAGHER: Where you said you had stadium seating still, where would that be?

MR. SCHLESINGER: Right there.

MR. GALLAGHER: Right where the exit would be?

MR. SCHLESINGER: Yeah, if you're looking at the concrete slab, the exit is right to the left of this, you can see the exit right there.

MR. ARGENIO: It has been referred to the County Department of Planning, we're awaiting a response. So I understand comprehensively, Neil, what's triggering this it's my understanding is that you want to enclose what's now currently a patio area?

MR. SCHLESINGER: That's correct.

MR. ARGENIO: And that's currently going to be permanent, it's not like a tent?

MR. SCHLESINGER: No, no, no, that's, it's three season and it's, yes, permanent.

MR. SCHEIBLE: Not fenced in?

MR. SCHLESINGER: No, it's permanent, there's two walls there now which are part of the structure as it stands now we're going to have to add one wall so it will look like a lean-to and the front wall will be all glass.

MR. BROWN: You said it's three season, so during the summer it's coming down?

MR. SCHLESINGER: The glass is coming down, it will be open.

MR. ARGENIO: Project is located in a PI district in the town, it's a pre-existing, non-conforming use in the zone. Since the use is pre-existing, non-conforming, there are no bulk values that apply. Relative to the parking, the applicant is indicating parking seasonal use is shared with the main restaurant parking. There are no other involved agencies. Anybody sees fit, no other involved agencies, if anybody sees fit, I'll accept a motion that Town of New Windsor Planning Board declare itself lead agency for this application.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare ourselves lead agency for the Schlesinger site plan. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: If anybody sees fit to make a motion to declare negative dec.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare negative dec on the Schlesinger Steakhouse site plan. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: It seems to me that the bulk of the comments are from the fire inspector and it seems to me that the spirit of this, Neil, is that you agree to do his, to comply with his wishes?

MR. SCHLESINGER: Absolutely.

MR. ARGENIO: This cannot go over the wire as minor, this cannot go over the wire this evening as minor as it is because it's been our standard to not to quote unquote me-too which is an approval subject to county and if we don't do it for other people we're certainly not going to make an exception for you. We're going to maintain the high standard that we have always maintained.

MR. SCHLESINGER: Based upon the fact that this does have to go to county, and if we have weather like we had during the summer and it was called to my attention that we're going to have snow on Friday, is there any, would the board be willing to give an okay to the building department so that perhaps we can get a framing and roofing permit so that we're not fighting the seasonal weather and that we take advantage of the

time while we're waiting for the approval from the county? And I realize that if you do grant that that the risk is totally on my shoulders.

MR. ARGENIO: Mark or Dominic, can I get your thoughts on this? I mean, I don't want to put you guys on the spot, I don't know how good an idea that is, I mean, typically, I know in the past we have granted permission for an applicant to pursue clearing lots, I know we did that with I want to say Sabini a few years back, I'm not sure, I know we have done that with the applicant.

MR. EDSALL: The whole key, you never want to do anything that's not reversible. If it requires approval so you wouldn't want to grant as an example someone the authority to clear something because it's pretty tough to unclear something. Here, if he has to go to the building department and begins to frame it in it's reversible, he'd have to tear it down if he doesn't get approval so--

MR. ARGENIO: Why wouldn't he get approval?

MR. EDSALL: I know of no reason why the county would--

MR. SCHLESINGER: As I said, I'm willing to take the risk, I think, I don't foresee any problems as far as county is concerned and hopefully, I don't foresee any problems as far as this board is concerned. But just as a matter of getting a jump on it, you know, get it going if the board approves it.

MR. SCHEIBLE: I think--

MR. SCHLESINGER: We have two walls up.

MR. SCHEIBLE: Square footage, there's no change?

MR. SCHLESINGER: No, just a matter of framing and

roofing.

MR. ARGENIO: What are your thoughts?

MR. CORDISCO: I think legally it's subject to potential challenge, not that there's anyone waiting in the wings here to challenge it, it would be procedurally questionable.

MR. ARGENIO: Well, I'm going to tell you, it's--

MR. CORDISCO: I understand that there's, that this is conversion of an existing temporary structure into a permanent structure that you're looking to accomplish and the season is getting ahead of you. I also understand that you thought you were on an earlier planning board meeting and had we been further along we would be in perhaps in a different position tonight but there's no fault of the board's but nevertheless, you know you're fighting the oncoming of winter.

MR. ARGENIO: When's the next meeting?

MR. CORDISCO: October 28th.

MR. ARGENIO: So we're talking about two weeks. Neil, I think this should be squeaky clean, that's my opinion.

MR. SCHLESINGER: I have no problem.

MR. ARGENIO: I think it should be squeaky clean.

MR. CORDISCO: It's not really discretionary.

MR. ARGENIO: If my uncle were sitting out there or Albert or something like that I think it's the, that's what we should do. What else can we do tonight?

MR. CORDISCO: Nothing, sir.

MR. EDSALL: You can decide on a public hearing or did you finalize that discussion?

MR. ARGENIO: No, we didn't but there's, does anybody have any thoughts on that?

MR. GALLAGHER: I suggest we waive it.

MR. BROWN: I think we should waive it.

MR. ARGENIO: Yeah, I think so too. What do you think? It's in the back of his restaurant.

MR. SCHEIBLE: The reason I asked square footage being changed and things like that and I don't see anything really changing in this whole atmosphere, no.

MR. BROWN: How high will the patio be when it's finished?

MR. SCHLESINGER: It's one, two steps.

MR. BROWN: Will it be visible from the road or anything?

MR. SCHLESINGER: No.

MR. ARGENIO: I'll accept a motion that we waive.

MR. BROWN: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded we waive the public hearing for Schlesinger's Steakhouse. Roll call.

ROLL CALL

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MR. BROWN AYE
MR. GALLAGHER AYE
MR. SCHEIBLE AYE
MR. ARGENIO AYE

MR. ARGENIO: Okay, that's the deal. What else, Neil?
I'm sorry about that.

MR. SCHLESINGER: No, I said I wanted this to be
squeaky clean as well.

MR. ARGENIO: Okay, very good.

DISCUSSION

VAILS_GATE_SHOP_RITE_-_BLUE_RHINO_CAGES

MR. ARGENIO: Vails Gate Shop Rite, Mark, what do you have?

MR. EDSALL: Vails Gate Shop Rite approached the building department and then in turn the building department referred it to me. They have all the work shown, they care to put in those exchangeable LP tank enclosures, Blue Rhino, my recommendation is that you acknowledge it for the record so that a copy of these minutes can be put in the Shop Rite file and turn the matter over to the building department.

MR. ARGENIO: Anybody have any thoughts on it? Blue Rhino it's the wire cage you see at every gas station around town, I think we should give it to the building department. Neil, do you agree?

MR. SCHLESINGER: Agree.

MR. BROWN: Yes.

MR. GALLAGHER: Yes.

MR. SCHEIBLE: Yes.

MR. ARGENIO: Okay, it's yours, Jen, get with Barney and the other guys over there and handle it.

MRS. GALLAGHER: We have already been out.

WASHINGTONVILLE_SOCCER_CLUB

MR. ARGENIO: What else? Washingtonville Soccer Club is here tonight for a proposal for an approved site plan. Who's here from Washingtonville Soccer club? Come on up and tell us your name. How long have you been, are you president?

MR. GUALTIERI: No, I'm a coach.

MR. ARGENIO: How long you been a coach there?

MR. GUALTIERI: Four years.

MR. ARGENIO: What's your name?

MR. GUALTIERI: Tony Gualtieri.

MR. ARGENIO: Mark, what do they have?

MR. EDSALL: They have an approved site plan and because of the, correct me if I'm wrong, Tony, financial difficulties in undertaking a lot of the improvements, they are unable to proceed with the full buildout that was approved by the planning board back in 2002. And they are looking to take what's shown on the approved site plan as a 2,400 square foot pavilion and reduce that down to a 24 x 24 foot shed optionally in the future bumping it back up but taking the existing shed that's being replaced up in the southwest corner of the site and relocating that as a service shed for sports, for handing out Gatoraid and water down on the lower fields and that's a 10 x 16 shed. So it's basically downsizing one but relocating existing one to a location not on the original plan.

MR. ARGENIO: Why is this ours? Cause of the relocation?

MR. EDSALL: It's again ultimately how it's done,

should be referred to the building department but again, I want the record to be clear that you had no objection to it.

MR. ARGENIO: Anybody have any thoughts? Neil? Howard? Danny?

MR. GALLAGHER: No.

MR. ARGENIO: I don't have any objection.

MR. SCHEIBLE: No.

MR. ARGENIO: Okay, Jen, that's yours as well.

MR. GUALTIERI: Thank you very much.

MR. ARGENIO: Have a good night. Motion to adjourn.

MR. BROWN: So moved.

MR. SCHLESINGER: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

