

August 19, 2009

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TOWN OF NEW WINDSOR

PLANNING BOARD

AUGUST 19, 2009

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

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

JENNIFER GALLAGHER  
BUILDING INSPECTOR

DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

ABSENT: HENRY SCHEIBLE

NICOLE JULIAN  
PLANNING BOARD SECRETARY

REGULAR MEETING

MR. ARGENIO: I'd like to call to order the August 19, 2009 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance

(Whereupon, the Pledge of Allegiance was recited.)

MR. ARGENIO: The nice ladies from the town are

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volunteering selling these fancy shirts that I have on so everybody should support their town.

MR. SCHLESINGER: How much did you pay?

MR. ARGENIO: They're \$10.00, including you folks and you guys over there.

MR. EDSALL: I have two, sir.

MR. CORDISCO: I bought one as well and it should be noted that the money goes to pay for the free food for the concert.

MR. ARGENIO: Thank you for that.

ANNUAL\_MOBILE\_HOME\_PARK\_REVIEW

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LEASE\_MOBILE\_HOME\_PARK

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MR. ARGENIO: First is Lease Mobile Home Park. Somebody here to represent this?

Mr. John Lease appeared before the board for this review.

MR. ARGENIO: Jen, can you tell me what we're doing here? What kind of shape it's in?

MS. GALLAGHER: Fire inspector has been out there, the condemned trailer has been moved, I would say that it's in much better shape than it was. Still it needs to be cleaned up a little bit but--

MR. ARGENIO: Cleaned, so the message you're getting is that there's rubbish around that, it's unsafe rubbish, things of that nature?

MS. GALLAGHER: Yeah, garbage, rubbish, but nothing that should hold him up, I don't feel.

MR. ARGENIO: Thank you for the efforts you've made. Can you speak to any of these things?

MR. LEASE: It's clean, my guys went back out there two days ago, if there's rubbish, I can get them to go there every day if we have to.

MR. ARGENIO: I don't think it needs to be every day, I'm glad you cleaned it up. We just don't want it to be an eyesore. That would be great. Did you bring a check this evening?

MR. LEASE: I think I paid it last time.

MS. GALLAGHER: Did you?

MR. LEASE: If not, I have one in the car if I need to.

MS. GALLAGHER: You paid the last time you were in?

MR. LEASE: Yes.

MS. GALLAGHER: I'll check and if you owe us I'll call you.

MR. ARGENIO: The question I'm asking myself if we didn't give you the approval, I don't know why you would pay the check.

MR. CORDISCO: Actually, Mr. Chairman, I believe that actually you did give approval last time because you wanted, and you wanted to have him back in just to ensure that there was compliance because the concern was as I recall that the approval was going to run from its original termination date.

MR. ARGENIO: I think you're right, Dominic, you have refreshed my memory and Jennifer has verified that it has been paid. As such, I'll accept a motion for the one year extension.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer the Lease Mobile Home Park one year extension. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE

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MR. ARGENIO                    AYE

MR. ARGENIO:    John, thank you very much for coming in  
tonight.

REGULAR\_ITEMS:

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AUTOZONE\_SITE\_PLAN\_(08-19)  
\_\_\_\_\_

MR. ARGENIO: First regular item is AutoZone site plan, Route 94 represented by Mr. Gregory Shaw. The application proposes construction of a 6,779 square foot retail automotive parts store adjacent to the existing Play It Again Sports retail building. The plan was previously reviewed at the 10 December, 2008 planning board and 29 April, 2009 planning board. It's my understanding, Greg, that you had to go for some variances, is that right?

MR. SHAW: Correct, we had to go for a variance for parking spaces.

MR. ARGENIO: How many spaces were you looking for?

MR. SHAW: We were shy five spaces, we're obligated to provide 62 and we have provided 54 on the site.

MR. ARGENIO: Tell us about what you've done here with the plan.

MR. SHAW: Okay, the parcel is on 94, if you go to Five Corners, down 94 on the intersection is the Mobil Station, we're the next parcel to the west. The parcel presently contains Pizza Hut and Play It Again Sports, it's on the south side of 94 and what we're proposing to do is to demolish the Pizza Hut building and basically redo the entire site. It's in a C zone, it's 1.43 acres and as I said, we're going to be redoing the site with respect to new highway entrances and I'll get to the most easterly new landscaping, new lighting, new water, sewer services, water mains for a sprinkler system. This parcel is somewhat unique that after I got involved with it I found out through your consultants' office that the Town of New Windsor has a pump station to the rear of this parcel and it's

presently being redesigned by your consultants.

MR. ARGENIO: That's correct.

MR. SHAW: And what we have incorporated into our drawings is not only an easement for the installation of a 12 inch force main for this new pump station but also for our right-of-way to allow town personnel to access over our property to get to the pump station. We have worked out an arrangement with the Town of New Windsor where they'll be providing the materials for the force main, my client will be installing it during the site improvements and the Town of New Windsor will be testing the force main upon its completion.

MR. ARGENIO: Would you point on the map, Greg, to approximately where the lift station is approximately?

MR. SHAW: I don't know because it's maybe 7, 800 feet to the south of the project. One of other points that the ball started rolling when the board brought this out months ago was the most easterly access again as I mentioned were basically rebuilding both highway entrances but the board had a concern with making left-hand turns into the most easterly access due to traffic cuing up at the light and backing up passed it, I've met with the DOT on two occasions and they have, they basically concurred with your position, the design drawings we reflect only a right in and right out for that intersection. To the west we'll have a full movement intersection which will allow access in and out.

MR. ARGENIO: You have concurrence with DOT on your traffic design and movements?

MR. SHAW: I would have to say as best as I can concur with them until you have the permit in hand, all right, you really don't have the final say but I have met with Sibby, as I said, on two occasions and she's okay with

the plan realizing full well the permit comes out of Poughkeepsie.

MR. ARGENIO: Okay.

MR. SHAW: And the couple final things we prepared a SWPPP for this project, we have incorporated a subsurface storm water sand filter, that information is indicated on the drawings. The SWPPP was reviewed by your consultants and found to be acceptable. And finally and as we talked about the last time Play It Again Sports that retail building which is about 2,400 square feet will remain. There's presently a lease on that building and it's going to run for another year or so at this point in time that retail building will remain and the parking require for that building is reflected in the bulk tables and the basis of our variance also.

MR. ARGENIO: Greg, I have two questions while other members look at the plan. What are the dots that are depicted in front of the building, are they bollards?

MR. SHAW: Yes.

MR. ARGENIO: Why do you have those there?

MR. SHAW: Those are standard, okay, that's the standard for AutoZone in dealing with national chains they have standard prototype drawings and they want that eight foot wide sidewalk with the bollards in front of it.

MR. ARGENIO: I think the eight foot wide is good and if they didn't have it we'd be requesting it, I think there's wisdom. Are they standard steel bollards or decorative?

MR. SHAW: It's been a while so just bear with me.

MR. ARGENIO: You see where I am there?

MR. SCHLESINGER: Yes.

MR. SHAW: They're six inch steel pipe concrete filled with a smooth plastic red sleeve on top which are going to be 42 inches high.

MR. ARGENIO: So they're semi-decorative I guess. The second thing is Greg and I don't want this is going to hang things up so I do want to ask this question, and I have been the one kind of leading the charge on this but this wall back here looking at the contours and in the detail you have an SMU wall, the dreaded segmental masonry unit wall proposed. What's the height of your proposed wall? As you're aware or maybe you're not aware, typically this board we frown on those SMU walls when they get much taller than four or five feet.

MR. SHAW: The wall is for sure going to be more than four or five feet high. If you let me get to the grading plan, I can give you a better number on it.

MR. EDSALL: Is that the one that's next to the storm water?

MR. ARGENIO: Yes.

MR. EDSALL: Similar configuration as to what The Grove used, I mean, again, I think it's cost effective, it's better to do it with the larger block, we have pointed that out and I think it's--

MR. SHAW: Five to six feet in its worst case, you have an area that's five or six feet and it starts reducing considerably because the existing grade picks up on the low side of the wall.

MR. EDSALL: It's right at the limit, Mr. Chairman.

MR. ARGENIO: I see that, I agree, let me, and on top of which in the fall zone, if I can use the term fall zone, crumple zone of a wall in the event of failure it's not falling onto somebody else's property, it's falling on their own property and into their pond. Without being too wordy, Greg, these walls are a problem, they can be problematic, let me just say that there's a lot of gray in both in the construction and the design. The Planning Board's and design engineers like yourself assume that competent people design them which sometimes is or is not the case. I'm sure you don't do all the calculations for the rotation of the wall, the shear of the wall, that kind of thing.

MR. SHAW: No, it's usually done by the manufacturer.

MR. ARGENIO: We assume also professionals like yourself and planning boards that competent people build them and we all know that's not the case. The bottom line is this, this board we typically when we get to five feet, four, five, five or six feet with walls we typically look for a different type of call, either something along the lines of a T wall or the big block walls that I think Dick's Concrete makes the units that you fill with stone, LHV up in Kingston makes them, the eight of the block is such that the walls are typically pre-engineered to a height of nine feet, eight, nine, 10 feet, they're pre-engineered, that's code as you know for difficult to screw up installation of. So when we get to those heights, we typically look for something different than an SMU wall.

MR. SHAW: If the board wants it we'll leave it to you. The perfect example is only about a week or so ago was Patriot Ridge, you have double masonry walls that I think are like 10 feet high, 10 foot high platform and another 10 foot high, they look in great shape, they haven't moved at all.

MR. ARGENIO: Who built the walls?

MR. SHAW: I don't know.

MR. ARGENIO: You really don't know? Argenio Brothers built the walls.

MR. SHAW: Well, that's why.

MR. ARGENIO: And I appreciate the compliment but, you know, not all contractors are the same and not all designers are the same. Neil, you have a thought I'd like to hear?

MR. SCHLESINGER: No, no, I do have a thought but go ahead.

MR. ARGENIO: And typically I've found in being the business that I'm in the quote unquote big block walls like LHV makes the cost is very similar because these SMU walls are very labor intensive and the big block walls go up quicker because they're handled with a machine and a lot less labor.

MR. VAN LEEUWEN: Tetz makes them too, they all make them.

MR. ARGENIO: I'm not talking about the blocks that they manufacture from the waste concrete, I'm talking about the, they actually have a face, looks like a fake stone, Gardnertown School we just built one this summer, take a look at it so you know what we're taking about, it's good stuff. Howard and Neil, do you have any thoughts on what I've just said? Mr. Shaw has stated he will change it, it's okay, keep it what it is. From where I'm sitting, I think he's right on the edge of what we typically require for the height for the SMU wall, he certainly has the right fence, the split rail with the black chain link. Anybody chime in, any thoughts, Dan and Henry?

MR. VAN LEEUWEN: I said before I'd like to see the bigger blocks too.

MR. ARGENIO: What do you guys think? I'm very neutral about it because the height is not that tall where it's a problem, very much neutral about the whole thing.

MR. SCHLESINGER: Well, one of the things that you just brought up in conversation is who's building the wall and, you know, I think that if one type of wall is acceptable, however, we may have doubts about it if it's going to be constructed right, well then maybe it needs to be inspected or supervised.

MR. ARGENIO: I'm okay with that, I'm fine with that and the other important thing here is that the wall in the event of failure the only person who suffers--

MR. SHAW: Is AutoZone.

MR. ARGENIO: Exactly, and a lot of times they'll put walls right next to neighbor's property line, if the wall fails, it ends up in somebody's yard.

MR. SCHLESINGER: We had a similar discussion with Dunkin Donuts.

MR. ARGENIO: Yes.

MR. SCHLESINGER: He was adamant about putting in this type of wall so, you know, I don't think that--

MR. ARGENIO: We can go exactly in the direction.

MR. SCHLESINGER: Right.

MR. ARGENIO: Danny?

MR. GALLAGHER: Like you said, we're right at the

threshold where it's kind of not mandatory that we go to a different wall. What is it that you have to use a geogrid?

MR. ARGENIO: It's in there.

MR. SHAW: Absolutely.

MR. SHAW: I'd just bring up that probably 40 percent of the length of that wall is three feet or less, it's really just in that worst case that it drops down to five or six feet.

MR. ARGENIO: I appreciate your candor. Henry, unless you're dug in?

MR. VAN LEEUWEN: I'm dug in.

MR. ARGENIO: Everybody I think is okay with the smaller block unless you insist on it.

MR. VAN LEEUWEN: I'll go with the rest of the board.

MR. ARGENIO: And the big thing is as I said, Greg, in the event of a failure, the only person suffering is AutoZone.

MR. SHAW: I'll keep that in mind for any further project that you would prefer to have the large block.

MR. ARGENIO: If you have a block wall that's close to property lines and the height is five or six foot let's think of another wall other than SMU, poured concrete, anything else other than that. But what I would like to request I would like when the wall is built I would like an engineer to certify to the construction of the wall that it is built per the plans that the licensed professional created who's going to sell the wall.

MR. SHAW: Understood, we can put a note on the

drawing, be a condition of a C.O.

MR. EDSALL: I'll send Greg a copy of the notice that we crafted for Dunkin Donuts.

MR. ARGENIO: That will be perfect, send him the verbiage. Who has, Jen, they did get their variances at ZBA, we have to discuss the necessity or not of a public hearing. What was, who was at the public hearing at the Zoning Board, was it a free-for-all or one or two people?

MS. GALLAGHER: There was absolutely no response from the public.

MR. ARGENIO: Zero?

MS. GALLAGHER: Zero.

MR. ARGENIO: Somebody wants to make that motion?

MR. VAN LEEUWEN: I'll make a motion we waive the public hearing.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive the public hearing per our discretionary judgment for AutoZone site plan on 94. Roll call.

ROLL CALL

MR. SCHLESINGER     AYE

MR. BROWN           AYE

MR. GALLAGHER       AYE

MR. VAN LEEUWEN     AYE

MR. ARGENIO          AYE

MR. ARGENIO: Guys, look at it, if you have anything

else.

MR. SCHLESINGER: I have something, this is something that I've become a little bit more aware of as being a landlord and on your plan here you have a dumpster area showing two dumpsters, is that dumpster area being shared by both units?

MR. SHAW: We'd like to think so, I can't answer that definitely.

MR. SCHLESINGER: You're showing one dumpster area with two dumpsters, I've learned that the dumpster area has become a problem depending upon who your tenant is. For instance, if you have a tenant that's a real estate insurance office, they're going to be throwing out paper garbage basically. If you have a tenant such as AutoZone they're going to be getting a lot of deliveries that come in, cardboard boxes so you need to separate their garbage from their cardboard boxes, I don't think your dumpster area's big enough to accommodate that.

MR. SHAW: The only way I can respond to that is that this dumpster area and there's a detail of it on our drawings from AutoZone that's their standard prototype refuse area.

MR. SCHLESINGER: If that's just for AutoZone, that's fine but we're looking at the site plan for the whole thing here. Where's the dumpster for Play It Again Sports?

MR. SHAW: Right now, there's no dumpster for Play It Again, I think you have to assume that they're going to have to utilize that also, if it means more deliveries, more pickups, okay that AutoZone is going to have to pay for, that's got to be the case.

MR. SCHLESINGER: Okay, that's one way of addressing

it.

MR. ARGENIO: I think you have a good point, Neil, I don't know that it specifically applies on this site but I think you have a good point if you drive around the back of--

MR. SCHLESINGER: Go to the back of my center.

MR. ARGENIO: I was going to say Target, take a ride in the back of Target, there's bails of cardboard everywhere and there's stuff, now it's certainly a dramatically different tenant mix than what we're looking at here but it's something that we should be thinking about.

MR. SCHLESINGER: Now, the issue here is yeah, we're going to need more pickups, what's going to happen here is Play It Again is going to say why should I pay for more pickups, it's their garbage? It's something that I think needs to be addressed. What do you think?

MR. ARGENIO: Well, I think what I'm hearing from you is that you're not saying what Greg has there is wrong or won't work, I think you're saying it's something this board needs to look at going forward.

MR. SCHLESINGER: I don't know whether its working for the whole site.

MR. SHAW: I understand it's a very good point, I don't know how you can answer that. I don't know whether or not the two refuse enclosures that we're showing there's surplus in it, whether AutoZone is going to max it out themselves, whether Play It Again Sports can use it and it's not a problem or maybe it will be a problem, I don't have the answer to that.

MR. SCHLESINGER: Okay.

MR. ARGENIO: Neil, what do you think the answer would be, how would we arrive at the answer?

MR. SCHLESINGER: The thing is that obviously if we went there it's different than what's existing there right now. I think that both tenants should, I don't know, I don't know who the owner of the property is, I don't know if he has common charges, blah, blah, blah, blah, blah, blah, blah, blah, I don't know how that works but I'm trying to say if it's a common expense of the center then I can live with that, if it's a dumpster area just for AutoZone that's acceptable to me. But looking at it from an aggregate, from the whole site, I need to know how the garbage is going or the refuse from Play It Again Sports is going to be addressed because it needs to be addressed and there's nothing on this plan that's addressing it. You sure as hell don't want the garbage company whoever it may be coming and dropping off a dumpster for Play It Again within the 25 foot driveway in the back.

MR. SHAW: And I understand there's always going to be unknowns with that such as this is a retail building, you have Play It Again Sports here, they're generating so much garbage, let's say we create another refuse area, now Play It Again Sports moves out a year and a half from now, now you have somebody that, who comes in and sells refrigerators, ovens, creates a tremendous amount of cardboard that doesn't fit in the limited area for Play It Again Sports. How do you handle that one? I guess what I'm saying is there's no fool proof way of addressing what could happen with respect to refuse from Play It Again or any future tenant that would be in that building.

MR. SCHLESINGER: Right now, there's no refuse area for Play It Again on the site.

MR. ARGENIO: Neil, there's two dumpster enclosures in the unit, one is for one building and one is for other,

that doesn't mean I disagree with you but there's two dumpster enclosures there. Keep one thing in mind as well what we don't want to do either we don't want to litter the town with dumpster enclosures, litter the sites with dumpster enclosures. Your point is not falling on deaf ears. If you recall, we had the fella from behind the Vails Gate Diner said, you know, we have litter, I mean, and I think you're the one who focused in on it and they did the dumpster enclosure and it was addressed so if you're looking for a formula, don't know that there is a formula. Mark, is there a dumpster formula or garbage formula that you are aware of that we can apply to this, not to this application but moving forward?

MR. EDSALL: No. One thing I would have done and multi-families we have looked at the distribution based on the number of units here per area but again it's very difficult to presume what the generation of waste is going to be from every use.

MR. SHAW: If I can just, one thing this is AutoZone's dumpster area, the interior dimensions are 11 x 18 feet, it's pretty substantial.

MR. ARGENIO: I would say it is.

MR. SAHW: You do have room in there for at least two dumpsters and probably cardboard or other material that needs to get stacked up there, so I think while there's only one of them, it has generous dimensions.

MR. ARGENIO: Henry, you want to make a point?

MR. VAN LEEUWEN: Yeah, the state is coming out with a law where all businesses have to save cardboard, I don't know when it's going to take effect but I know it's in the works because a couple of weeks ago I was over at Royal Carting and the old man there was telling me the story that everybody has to save. At the old

business where I was at we save our cardboard, we have a tremendous amount and we stacked it up and they come once a week and pick it up but because our landfills are getting so full with garbage if we, just plain garbage, let alone the cardboard they're supposed to do something in Albany about that.

MR. ARGENIO: I'm going to tell you this, Neil, if you want to develop a standard that you're proposing we develop a standard for the size of these things, I certainly don't take exception to that if you want to. I think it's unfair to ask an applicant in an arbitrary fashion say double your dumpster, I don't think it's wise. I don't think it's smart. But if you're looking at that and you're saying I think they should be a bit bigger then I think you should say that.

MR. SCHLESINGER: No, I think that the important thing here is correct me if I'm wrong you're saying that that's a shared dumpster area?

MR. SHAW: It's going to have to be period.

MR. SCHLESINGER: Then I have no problem with that, I'm not the landlord, I don't, I'm not going to have to deal with this tenant or that tenant, as long as it's a shared dumpster area the size is fine 11 x 18, that's big, I have no problem with that.

MR. SHAW: Okay, if you want we'll put a note on the plan stipulating.

MR. SCHLESINGER: I have no problem with that, okay, as long as it's an understood thing.

MR. ARGENIO: Make a note to yourself, Mark, and I'm trying to develop a correlation here, we have X square feet and we have two dumpsters, let's see if the building department's phone rings in the next 18 months or whatever.

MR. EDSALL: I'll do you even one better than that, what I will do is because the fire inspectors if anybody goes to the site all through the town I'll sit down with them try to get an idea where people are having problems, try to correlate dimensions.

MR. ARGENIO: It's not directed at you, Greg.

MR. EDSALL: The other thing I'll do, assuming that what Henry is indicating is going to happen will happen soon we may have to start assuming that sites will need to have pads available, a pad for a lot of these places put in the cardboard bailers, I've had a couple sites come back and ask for them in different communities so we may have to keep that in mind as well.

MR. ARGENIO: Let me extend that a little bit when you're doing your workshop meetings and discussing these different various sites maybe it's a question you should ask the property developer or property owner about what he's going to do with the retail or commercial space or what he's going to represent to do and we can get some input on that level so when we get to this level we're not getting into a lot of minutia, it's already been thought about.

MR. EDSALL: I'm adding that to the list.

MR. ARGENIO: Very good. If anybody sees fit, I will accept a motion that the Town of New Windsor Planning Board declare itself lead agency.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency on the Autozone site plan.

ROLL CALL

MR. SCHLESINGER     AYE  
MR. BROWN            AYE  
MR. GALLAGHER        AYE  
MR. VAN LEEUWEN      AYE  
MR. ARGENIO          AYE

MR. EDSALL: Mr. Chairman, also in addition to number 3  
I failed to indicate that we do need to consider a  
negative dec.

MR. ARGENIO: Somebody?

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that  
the Town of New Windsor Planning Board declare a  
negative dec under the SEQRA process for the AutoZone  
site plan. Roll call.

ROLL CALL

MR. SCHLESINGER     AYE  
MR. BROWN            AYE  
MR. GALLAGHER        AYE  
MR. VAN LEEUWEN      AYE  
MR. ARGENIO          AYE

MR. ARGENIO: We received a note from county local  
determination, they have already responded. You need  
to be sprinklered, Greg.

MR. SHAW: Yes, we brought a water main into the site  
for that purpose.

MR. ARGENIO: Do you have a hydrant on the site?

MR. SHAW: Yes, we do right here to be exact.

MR. ARGENIO: Okay, you guys have anything else?

MR. GALLAGHER: Play it Again Sports building, is there any improvements, is that staying how it is, any plans to eventually take that building down?

MR. SHAW: I really am not sure of the contractual arrangements. The property is owned by Windsor Associates, they have a lease with Play It Again Sports. When the lease expires, they're contractual obligations cease, you have AutoZone which I believe but I'm not sure has control of the site who has the right to rent out that building or to repair it I think it belongs to AutoZone after Play It Again Sports' lease terminates so until that lease terminates, I don't think anything's going to happen with that building. But you look at it as well as I do, I don't believe AutoZone is going to make the improvement they're making to the site and leave it there.

MR. GALLAGHER: Do Autozones have repair shops within them?

MR. ARGENIO: No, there's one across the street, I think they're going to move from the Pricechopper plaza.

MR. EDSALL: That's a competitor, Advanced Auto.

MR. ARGENIO: I didn't know that.

MR. GALLAGHER: Aren't they over across from the Newburgh Mall?

MR. BROWN: Yes, that's an AutoZone.

MR. CORDISCO: Mr. Chairman, I have gone ahead and

prepared a resolution for approval that incorporates all of the conditions that Mr. Edsall put in his memo.

MR. ARGENIO: That's mighty presumptuous of you. I'm going to add a couple things to that.

MR. CORDISCO: Which is your prerogative.

MR. ARGENIO: If anybody sees fit I'll accept a motion for final approval for AutoZone.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer final approval to AutoZone. Mark, follow me on this subject-to, Mark will give you the verbiage that we'll require for the certification for the retaining wall and I want to bullet the point that your contractor whoever he may be will not interrupt the town force main when he does his work, he can pump it, he can push it, he can pipe it, he can do whatever he wants, don't interrupt.

MR. SHAW: Understood.

MR. ARGENIO: And--

MR. VAN LEEUWEN: He better not because he's going to have a lot of people mad at him.

MR. ARGENIO: Motion has been made and seconded and subject-tos have been read in. Roll call.

ROLL CALL

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

MR. VAN LEEUWEN     AYE  
MR. ARGENIO         AYE

MR. ARGENIO:     Thank you Mr. Shaw.

MR. SHAW:     The next step for us is off to New York State Department of Transportation and they have taken the position where they will not accept any documents for a permit until we get a stamped plan from the planning board.

MR. ARGENIO:     When did this start, Mark, are you aware of this? I'm not aware of this.

MR. EDSALL:     They seem to have a curve ball for us every month.

MR. ARGENIO:     This is not Sibby.

MR. EDSALL:     No, I've run into some cases where they have asked for verification that the board took approval action. How I have handled it with other communities is that I have with the board's authorization issued a letter indicating that conditional approval is granted and referenced the date so if that is acceptable we'll try to.

MR. ARGENIO:     Is it acceptable, Greg?

MR. SHAW:     I only can hope that it will be with the DOT, you never know.

MR. ARGENIO:     I don't think it's a problem stamping the plans.

MR. SHAW:     There are things that have to be done and for that to happen normally that takes four or five weeks, I'm looking to get something from the board through your consultants in a week to allow me to go to the DOT.

MR. ARGENIO: Can't we give them that?

MR. EDSALL: I'll issue a letter on town stationery indicating that it was granted conditional final approval and we'll see if that works.

MR. SHAW: And we'll hope for the best. Thank you, that's all I can ask.

MR. CORDISCO: That would be the best way to handle this because stamping the plans there are conditions that have to be met.

MR. ARGENIO: I agree.

VERIZON\_WIRELESS\_(09-23)

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MR. ARGENIO: Regular items, Verizon Wireless on Toleman Road.

MR. VAN LEEUWEN: This is on a, I leased that property to, I own the property under it, I lease the property to Verizon, I will sit in the audience and keep my mouth the shut.

MR. ARGENIO: Are you sure?

MR. VAN LEEUWEN: Yes.

MR. ARGENIO: Application proposes new antenna facilities on the existing cell tower at the site as well as new equipment structure at the base. The plan was reviewed on a concept basis only. Sir, can you please tell us who you are for the benefit of the stenographer and who you represent?

MR. ROHDE: Absolutely, my name Clifford Rohde, R-O-H-D-E, I'm an attorney with the law firm of Cooper, Erving and Savage and we represent Verizon Wireless.

MR. ARGENIO: Go ahead.

MR. ROHDE: And with me tonight as well is Mike Orchard from WFI, Verizon Wireless Site Acquisition Specialist for this site. We're here to seek approval to put antennas up on an existing telecommunications tower that's more or less at the intersection of Toleman Road and Little Britain. It is probably the most vanilla style application you ever want to see when it comes to communication facilities, it's entirely consistent with the town's goals to have shared use of telecommunication towers, it's a 148 foot tower that's owned by--

MR. ARGENIO: The existing tower?

MR. ROHDE: Existing tower, yup, that's owned currently by Towerco (phonetic), is that right, and there are two providers that are not Verizon Wireless currently on the tower, we would be the third provider to go on the tower. We would put 12 panel antennas at the 130 foot center line height. In addition, we would install a 12 foot by 30 foot equipment shelter at the base of the tower within the existing compound.

MR. ARGENIO: That's subject to review by the building department.

MR. ROHDE: Sure, and cabling would run from the panel antennas down to the equipment shelter, the utilities are already installed at the site so we'll just link into them, we're not proposing any development of land or anything, this is all there already.

MR. ARGENIO: Are these antennas flat antennas, what are they?

MR. ROHDE: Yeah, they're flat.

MR. ARGENIO: They're 6 x 8 inch by some dimension high?

MR. ROHDE: Yes, and I'd have to look to see, Mike?

MR. ARGENIO: About?

MR. ROHDE: Yeah, some are 6 feet, some are 8 feet and I'm not sure exactly what we're proposing on this particular one. So yeah they're very flat, they stick out roughly the same as the current antennas do from the tower, they're put on mounts that are affixed, there are three panels or three sectors, four antennas per sector and so they receive and transmit communication signals.

MR. ARGENIO: Henry, there's a note here from Mark that says the board should note that this is the site of Rock Tavern Village commercial subdivision NWPB app 08-13 which is currently pending before the board. Such application has no affect on this application although they do have, they have depicted the lot lines. I'm under the impression that you had an application before this board back long ago but you had withdrawn it, there's nothing active unless I'm--

MR. VAN LEEUWEN: No, it's not activate at the moment, it was basically withdrawn, I'm in the process of selling the whole parcel.

MR. ARGENIO: This is long ago, right, this is years ago?

MR. VAN LEEUWEN: No, about a year.

MR. EDSALL: It's application 08-13 so it's an '08 application mid year.

MR. ARGENIO: Okay, so does anybody have any questions on this? I don't know much about antennas, I can tell you I'm glad it's not going to be higher.

MR. BROWN: This is replacing an existing antenna?

MR. ROHDE: No, it's not, brand new antenna on an existing tower.

MR. ARGENIO: There's a tower there that has multiple antennas on it, what they'd like to do is install how many antennas?

MR. ROHDE: Twelve antennas.

MR. ARGENIO: On that tower.

MR. BROWN: It's not going any higher?

MR. ROHDE: No, in fact, these will be lower, it's a little bit hard to see it's in the materials that we submitted to the board but this drawing shows the existing tower as it is today, there are antennas at the top of the tower and some directly below and we would go directly below those and so they're new antennas for us just to give a little bit of background.

MR. BROWN: Just wanted, the existing antennas are for other carriers, correct?

MR. ROHDE: That's correct.

MR. BROWN: By putting your antennas that makes you a carrier for this antenna?

MR. ROHDE: Yes, Verizon Wireless identified a gap in its coverage area and seeks to fill that gap so it's almost always our first choice if not always our first choice usually the first choice of towns as well to site your facilities on existing, somebody else's facilities if they're there or a tall structure, building, silo sometimes.

MR. ARGENIO: Mark, do I have to recuse myself? Verizon phone.

MR. EDSALL: I guess we're all in trouble.

MR. CORDISCO: Not I.

MR. ARGENIO: You were going to say?

MR. EDSALL: But he has no reception.

MR. ARGENIO: He never does.

MR. CORDISCO: Which is a good thing.

MR. EDSALL: If I'm reading their schedule correctly on the antenna it looks like there's two sizes, one panel's about four foot tall and the other one looks to be seven to eight foot tall.

MR. ROHDE: We broadcast at two different frequencies.

MR. EDSALL: That's on the schedule on sheet C3 but it's depicted.

MR. ARGENIO: Where are we going with this?

MR. EDSALL: As I indicated they have done what is the preferred alternative for cell towers, cell facilities in the town which is to co-locate so that's wonderful cause that makes the process quite simpler in the code. It's my understanding unless I read the code wrong that it is a special permit and notwithstanding the fact that it's a co-location it needs public hearing.

MR. ROHDE: May I ask a question about that? I looked in my read of the statute there's a bit of an inconsistency or ambiguity and I did want to flag this for the board. To my mind I think it's possible that the board can actually dispense with this application tonight hopefully in the affirmative and I would draw the board's attention, I will just grab my zoning law here, to Section 300-28, that's telecommunication town towers generally sub C paragraph 2 and that says applicants proposing to co-locate on a previously approved telecommunications tower do not require special permit, they are however subject to site plan review by the planning board in accordance with Section 300-86. And of course I'm under site plan review, it's within the board's discretion to have a public hearing or not. Now, I will acknowledge that if you look further on in the law it talks about special permits and so there's an inconsistency there.

MR. EDSALL: Well, I was happy to have you quote that section cause I, my recollection was there was a simple process for co-location that was intended when I looked at subsection D it didn't read there so I figured it must have been eliminated, I couldn't recall the mystery but it looks like I didn't read the entire code, just the portion that had the procedure.

MR. CORDISCO: And the application did come in as a special permit application, that's what was checked off and so special permits have always required a public hearing but I think you're correct.

MR. EDSALL: Do you have a copy of the code?

MR. ROHDE: I do, he took this off the E-code today, I agree, it did say site plan, I think Mike was in contact as well with Mark and so I mean if I'm--

MR. EDSALL: In all honesty, my comments are very short because, they're doing exactly what we anticipated when the code was written to try to streamline the process if they take the preferred course which is co-location. I'm looking at the code and one Section A above the section that references special permit and the procedure of public hearing it effectively waives the requirements if it's an approved site, this is an approved site, they're working within the new equipment building which is within the fenced area that you have already approved for the equipment structures, as I indicated, it has no conflict with the pending application for the subdivision based on my reading of the code, if you're so inclined, you could treat it as a stand alone site plan amendment and move forward.

MR. ARGENIO: They have the legal right to be there, yes?

MR. EDSALL: They have included in their package and I did go through to make sure it was complete they have

included the references to the lessees, the agreement with the property owner they have included the structure analysis showing that the additional antenna don't have a detriment to the tower.

MR. ARGENIO: You have reviewed them?

MR. EDSALL: I have looked at it, it's been prepared by a licensed engineer from New York, it's complete so I would think the gentleman's correct that if you're so inclined to process it as a site plan amendment you could move forward.

MR. ARGENIO: In the spirit of what we're trying to achieve in not having these towers all over the place, they're doing what we want them to do per code by locating on an existing tower.

MR. EDSALL: It's the accelerated procedure in recognition that they have done what we asked which is co-locate.

MR. CORDISCO: Mr. Chairman, I have reviewed the application as well from the legal standpoint, it was complete and also in regards to the discrepancy in the code any discrepancy in the code has to be evaluated in the applicant's favor.

MR. ARGENIO: Guys?

MR. GALLAGHER: I have no problem, they're not going any higher, they're co-locating.

MR. CORDISCO: If the board is inclined to move forward, you did acknowledge the applicant would acknowledge that we're changing this from a special permit application to a site plan amendment.

MR. ARGENIO: When you do this work, you put these towers up, is there a lot of additional traffic that

goes in there?

MR. ROHDE: Oh, no, very automated facilities, usually there's about one visit a month to the facility by an actual person.

MR. ARGENIO: I would expect as much. Trying to think if we're missing anything. I cannot think of anything. Somebody sees fit, I think we'll accept, wait a second, let me just think about this for a second. So this is a site plan application, not a special use permit?

MR. EDSALL: This is a site plan amendment, you have already granted site plan for this use at this location, they're not increasing the height.

MR. ARGENIO: I'll accept a motion we give final approval to the site plan amendment for ORP.

MR. CORDISCO: Got a couple other steps Mr. Chairman first.

MR. ARGENIO: We don't have to waive public hearing because there's no special permit required.

MR. EDSALL: But you have an optional site plan public hearing so you should for the record say there's absolutely no need and determine that you can in your discretion waive.

MR. ARGENIO: Amendment to the plan, they're putting antennas on top of a tower.

MR. EDSALL: It's not on top, it's lower than some of the antennas.

MR. CORDISCO: But it would be a site plan application.

MR. ARGENIO: Go ahead, Henry or Neil or Danny, if you disagree with me and I you think that we need to go

that route, I'm all ears.

MR. SCHLESINGER: Make a motion?

MR. ARGENIO: No, I don't want to, I'm asking you about your opinion about a public hearing necessary or not?

MR. SCHLESINGER: No, not necessary.

MR. BROWN: I don't think so.

MR. GALLAGHER: No.

MR. SCHLESINGER: Motion that we waive public hearing for preliminary and final.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we waive preliminary and final public hearing for the ORP site plan. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Dominic?

MR. CORDISCO: There's a couple additional steps, there's no need to circulate for lead agency because this board is the only involved agency so you can step over that procedural hurdle. Our practice has been to prepare a written negative declaration and written resolutions of approval. And then you could also adopt a motion that would grant final approval and I would prepare formal written resolutions as long as the

chairman of course has authorized to sign them.

MR. ROHDE: If I might interject, I don't know if this is the board's concern but if you feel there's a need to go to the county.

MR. CORDISCO: You're within 500 feet of a state or county road?

MR. EDSALL: Is this lot within the 500 feet or is the current parcel within 500 feet?

MR. ROHDE: Well, I know, I believe--Mike?

MR. ORCHARD: Yeah, we talked about it at the workshop but the exact dimension I'm not sure at the moment.

MR. CORDISCO: Is the structure within 500 feet of the state or county road?

MR. ARGENIO: That's not what the law says.

MR. EDSALL: That's why I'm asking cause it's a separate parcel I believe.

MR. ROHDE: Which?

MR. EDSALL: Cell tower parcel.

MR. ARGENIO: The question we should be asking in my estimation is the parcel that the cell tower is on is any part of that parcel within 500 feet of New York State 207?

MR. EDSALL: Exactly.

MR. ROHDE: I believe that it is at least a portion of the parcel is.

MR. SCHLESINGER: If you look at the plan it's not

because there's a 500 foot radius and it doesn't come anywhere near 207.

MR. ARGENIO: Neil, that parcel that it sits on any portion of that parcel cannot be within 500 feet, it appears that that's the case.

MR. SCHLESINGER: That it's not?

MR. ARGENIO: It appears to me that it's not.

MR. EDSALL: The lines that are shown are proposed lot lines, that's the problem so it's, the parent parcel does border on 207. My suggestion is that you authorize the resolution we'll make the referral and once the county kicks it back.

MR. ARGENIO: I can't imagine a comment.

MR. EDSALL: No, there's not going to be.

MR. CORDISCO: To be technically and legally complete it needs to be referred to the county.

MR. ARGENIO: Absolutely right.

MR. EDSALL: So we'll make that referral, I suggest you just authorize the resolutions.

MR. CORDISCO: We'll prepare them for next month's meeting.

MR. ARGENIO: Yes, it seems to me the spirit is correct and everybody's in agreement with it. I'll accept a motion that we authorize Dominic to prepare those two resolutions for negative dec and final approval.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion's been made and seconded. Roll call.

ROLL CALL

MR. SCHLESINGER      AYE  
MR. BROWN            AYE  
MR. GALLAGHER        AYE  
MR. VAN LEEUWEN      AYE  
MR. ARGENIO          AYE

MR. ARGENIO: Do you have anything else?

MR. ROHDE: No. when is the next meeting?

MR. ARGENIO: Call Jennifer tomorrow or Jennifer, Nicole, call Jen and she'll tell you what you need, we'll get the county thing taken care of.

MR. EDSALL: It will be on the next meeting after we hear from the county cause the next meeting is on the 9th which is not 30 days so if they take their time so 9th or 23rd.

MR. CORDISCO: We have two meetings in September.

MR. EDSALL: Depending on the response.

MR. ARGENIO: I have to tell you from where I'm sitting here I don't know that we need these folks here for that unless the county comes in with a bunch of comments which I can't imagine.

MR. EDSALL: Generally, where there's a need to delay formal action but there's really no issue that's shared with the applicant that if the county doesn't raise any issues we'll let you know everything's fine and the resolution gets adopted, saves you a trip.

MR. ARGENIO: That's exactly where I'm going.

MR. EDSALL: So I would contact Jennifer or Nicole as long as the county comes back with local determination it will just happen.

MR. ROHDE: That would be much appreciated. Thank you very much.

PATRIOT\_BLUFF\_SUBDIVISION\_AND\_SITE\_PLAN\_(01-65\_&\_01-66)

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MR. ARGENIO: Patriot Bluff.

Mr. Gregory Shaw from Shaw Engineering appeared before the board for this proposal.

MR. ARGENIO: Application proposes development of 175 unit multi-family condo site plan on the westerly portion of the RPA property. Plan was previously reviewed at the 12 December, 2001, 22 May, 2002, 10 March, 2004, 9 May 2007, 27 June, 2007, 8 August, 2007, 10 September, 2009, 12 November, 2009 and 10 December, 2009 planning board meetings. Is that just the new plan or is that the whole project?

MR. EDSALL: This application.

MR. SHAW: Thank you.

MR. ARGENIO: Go ahead, Greg.

MR. SHAW: I have very little to offer tonight. I believe since the last time we have been before this board, the attorneys, that being our attorney and the board's attorney, have been working on a, I'm not sure whether it's a negative declaration or findings statement with respect to the SEQRA process. If you remember, we did have a joint public hearing both on preliminary subdivision approval and also on preliminary site plan, not preliminary site plan but a public hearing on site plan approval also and we have addressed I believe the issues that were of concern with this board. And now we're at a point where we're looking for a conclusion of the SEQRA process and please Mark and Dominic jump in if I'm off base on this but that's where I believe we are. The technical review is behind us, we're not in a position to get into specifics of the project unless the board has any questions but I think it's more of a closing out the

SEQRA process more than anything else.

MR. ARGENIO: For the board's edification with Greg in closing out the SEQRA process please share what that is when we close that process out exactly.

MR. SHAW: Well, what you have done is--

MR. ARGENIO: We required because the amount of time, an extended amount of time had passed from the original authoring of the Environmental Impact Statement we required a Draft supplemental Environmental Impact Statement, yes?

MR. SHAW: Yes.

MR. ARGENIO: Take us forward.

MR. SHAW: What the board requested years ago, let me back up for a second, we had a public hearing over in the senior citizen center on this project based upon the input that you got from the neighbors, the board basically decided that the environmental impact statements which were done for New Windsor Sky-Lom around 1990, 1991--

MR. ARGENIO: They're too old.

MR. SHAW: And you said listen, we have to start updating some information that we'd like to have more current, then the board along with the consultants for the project sat down and came up with a scope and you basically told us guys, what we want you to go back and look at and prepare is a Supplemental Environmental Impact Statement and submit it to us and that's what we did. Once we submitted that to the board, that was followed by public, a public hearing for both preliminary and subdivision approval and for site plan. Based upon that public hearing, there were some comments that need to be addressed, okay, and that in

turn brings us to the point now of we feel that we have addressed all the issues that came up and again the board is going to have to make that determination in order to close out the SEQRA process.

MR. CORDISCO: If I could add to that, Mr. Chairman, Mr. Shaw's correct, there was a joint hearing that was both on the Supplemental DEIS and on the subdivision and site plan applications. And there was some public comment at that meeting and it was a fairly decent turnout.

MR. ARGENIO: At Town Board level?

MR. CORDISCO: No, at the planning board level and as I recall, the concern was primarily regarding traffic.

MR. ARGENIO: Right.

MR. CORDISCO: Existing traffic concerns at that location. SEQRA, the typical process is that when you have a DEIS then you have a public hearing and then if there's a significant level of comment, a substantive comment then you have what's prepared, called an FEIS, a Final Environmental Impact Statement and that actually takes the comment and then provides specific responses to it and it's typically done when there's further evaluation that needs to be done. Here as a result of a number of work sessions that we've had and a review of the public hearing transcript the level of public comment was noted, did not appear to be substantive and as a result we can go directly from a Supplemental DEIS which is what you had before you so far to a negative dec and what we have done is we have prepared a detailed 9 page single spaced negative dec document, that negative dec that evaluates every area that was analyzed in the supplemental DEIS and concludes that the applicant through various different mitigation measures have addressed all their environmental impacts and that's specifically provided

for in the SEQRA regulations because it acknowledges that there's no need to go through the FEIS process if there really isn't a level of comments that needed to be responded to so there's no need to put an applicant through the time and expense of doing that additional step.

MR. ARGENIO: Public hearing that you referred to at planning board level is that the one that we had quite a ways back down in the building in the back that I think Neil ran or Ron Lander ran the meeting, is that right?

MR. SHAW: No, that's not the public hearing I believe he's referring to.

MR. CORDISCO: That was perhaps the scoping session, we had a scoping session prior to that which set the level of detail that needed to be addressed.

MR. EDSALL: The meeting that you're recalling was the meeting wherein the board determined that a supplemental was needed.

MR. SHAW: That was four or five years ago.

MR. ARGENIO: I remember, Greg, this project is so old and we have reviewed it so many times and in so many different forms that I want--

MR. SHAW: I wanted to clarify that for Dominic that the meeting that we had in the senior citizen center was four or five years ago, that's pretty much off the table now, we had a new public hearing within the past year and that's the issue that we're talking about.

MR. CORDISCO: I believe it was in December of '08.

MR. ARGENIO: Who has questions? We had a lot of discussions about this project at the Town Board with

the Town Supervisor, at the planning board level with Greg, in the workshops and we're certainly keyed into it, I wanted Dominic and Greg to both announce what we're doing tonight so you guys can have a good understanding, it's adopting a negative dec for the project.

MR. SHAW: That's it.

MR. BROWN: All nine points have been addressed according to Dominic, am I correct?

MR. CORDISCO: Correct.

MR. EDSALL: We're just discussing that one of the things that the document did discuss as well as addressing all the issues that the board had outlined in the scope was the market change that occurred to increase the number of units that were multi-family. The balance, that change was one which was not overlooked that was addressed in the, in their analysis so the analysis that they have put forth and the board has evaluated is current to the plan that's before you, that's really what I'm trying to say.

MR. CORDISCO: There's one procedural loose end that should be addressed before the board moves on to this, if you're so inclined, the public hearing has been closed and there's a default approval provision both in state law and in the Town Code that says that once SEQRA is concluded essentially and public hearing has been closed the board has 62 days otherwise they get a default approval.

MR. VAN LEEUWEN: Providing everything is according to hoyle.

MR. CORDISCO: Well, that's correct.

MR. ARGENIO: We're going to move to mitigate this, I

think that's where Dominic is going.

MR. CORDISCO: What we'd like the applicant to do would be to formally waive that 62 day requirement on the record.

MR. ARGENIO: So they do not get that defacto approval based on the time requirements, do you agree with that?

MR. SHAW: Consider it waived.

MR. ARGENIO: Consider it waived, okay, good. Anybody have any thoughts on this, anything else?

MR. VAN LEEUWEN: Make a motion we declare a negative dec.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare negative dec on Patriot Bluff condo site plan. Do I have to read the date into the minutes or do we have, has it been identified here?

MR. EDSALL: For the plan itself?

MR. ARGENIO: The appropriate plan, correct.

MR. EDSALL: I would adopt the negative dec that was prepared by counsel and the plans that you're gong to act on for preliminary approval for the subdivision and any future site plan approvals we can enter the dates for those specific plans into the record.

MR. CORDISCO: And the resolution actually adopting the negative declaration references the plans that have been submitted to date.

MR. ARGENIO: I have planning board number 01-65 and another one for 01-66 and--

MR. EDSALL: One is the subdivision application and the other is the site plan application, we have two applications that are paralleling through the process.

MR. CORDISCO: But you have two resolution and one references the one application and the other one references both applications, the one that references both applications was the corrected version, the other one should be tossed.

MR. ARGENIO: That's why I wanted to probe a little bit. Motion has been made and seconded that we accept Dominic's negative dec as written, PB number 01-65 and 01-66 that makes sense. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

SONIC\_DRIVE-IN\_SITE\_PLAN\_(09-25)

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MR. ARGENIO: Next is Sonic Drive-in site plan. This application proposes a drive-in type restaurant facility on the existing commercial lot adjacent to the Wal-Mart site. Plan was reviewed on a concept basis. Your name and the firm you're with?

MR. KOEHLER: My name is Daniel Koehler, I'm with Hudson Land Design, the engineer for the applicant.

MR. ARGENIO: Go ahead.

MR. KOEHLER: We're looking to put in a new Sonic Drive-In right here in the town. The site is located adjacent to the new credit union on the Wal-Mart site.

MR. VAN LEEUWEN: Behind it?

MR. ARGENIO: Next to it.

MR. KOEHLER: A little south. This board approved the subdivision that this proposal is on. So we're proposing a new drive-in where we're going to use access off of the existing curb cut through the interior movements of the site, there's no actual new curb cuts to any of the public roads. We have met with the town engineer and also with the fire inspector on a concept level, discussed a few items and we believe we addressed those items where we have at least a 30 foot accessway in between our canopies which will act as a fire lane and a 20 foot escape lane for the, any emergency vehicles that may have to go through there. We have 21 regular parking spaces proposed and 20 canopy parking spaces. Just so you guys are, maybe get a little more familiar with it cause they're not really around here, but there's one in Kingston that's operational right now, if you ever have the opportunity to go on up there. But what happens is is that it's an old drive-in, Sonic's been around since the '50s, they

have over 3,500 stores nationwide and the way it works is that basically you're going to pull your car on into the site and then there's what we call service canopies, the service stall, the car pulls right on in and then there's an order board right there and what they do is they basically just hit the button and then they order their food and then a car hop brings it out to them. Town of New Windsor water and sewer is where we're going to connect, we're connecting drainage into the Wal-Mart system, now when Wal-Mart had originally had and overall approval of the entire site what they did was they anticipated that this particular site was going to be 100 percent impervious so that all the storm water that was going to run off our site could be generated and conveyed into their pond that was already designed and built and that's already been included in those calculations.

MR. VAN LEEUWEN: Are you going to have a grease trap?

MR. KOEHLER: Yes.

MR. VAN LEEUWEN: That's going to be maintained by the company that maintains them?

MR. KOEHLER: Has to be, yes, it has to be pumped regularly as often as needed.

MR. SCHLESINGER: Drive-thru window also?

MR. KOEHLER: There's a drive-thru window as well.

MR. SCHLESINGER: And the little dining area is not enclosed?

MR. KOEHLER: No, that's all open, there's a canopy above but it's, there's no interior seating, the right, the only people going in and out of the building are the car hops and the people cooking in there but that's not for the public to be, well, actually bathroom,

there's a public bathroom.

MR. ARGENIO: In the dumpster enclosure area, what are the three boxes there behind the dumpsters?

MR. KOEHLER: I believe that that was--

MR. SLATER: We collect grease also.

MR. ARGENIO: Hold it, please stand if you're going to address the board. What's your name?

MR. SLATER: My name is Doug Slater, I'm one of the franchisees.

MR. ARGENIO: Go ahead.

MR. SLATER: Within the dumpster enclosure we've got a dumpster for regular garbage, we've got recycling cardboard, paper, we also have small containers for grease collection and recycling.

MR. ARGENIO: Look at that, Neil, right up your alley.

MR. SCHLESINGER: Way ahead of me.

MR. ARGENIO: How many Sonics do you operate?

MR. SLATER: Right now just the one in Kingston.

MR. ARGENIO: And your waitresses are on four wheels or in-line wheels I should say, eight or in-line wheels?

MR. VAN LEEUWEN: They wear short skirts, low tops.

MR. SLATER: Whichever they prefer, we're equal opportunity.

MR. BROWN: What's the normal hours of operation?

MR. SLATER: Normal hours the full, the entire complex is 6 a.m. till midnight, the one in Kingston we keep the drive-thru open till 2 a.m. There are Sonics that are just 6 to 12 or 7 to 12.

MR. SCHLESINGER: So you have a breakfast menu as well?

MR. SLATER: The entire menu all day but we do have a big breakfast for sure.

MR. ARGENIO: Mark, can you tell me about the traffic movements? What are your thoughts on this, the traffic movements? I know that Liner Road currently is not problematic, I've been there a thousand times, talk to me, tell me what you think.

MR. EDSALL: It's not been reviewed by the Town of Newburgh or any representative from the Town of Newburgh as of yet, you'll notice under comment 6 on my last page I am suggesting that it be sent over to the Town of Newburgh Planning Board for review.

MR. ARGENIO: No question.

MR. EDSALL: Obviously we have--

MR. ARGENIO: We need to get that done.

MR. EDSALL: We have an obligation under 239 NN to send it to the Town of Newburgh Clerk which is what the law requires and I didn't think that would do as much good as sending a separate copy to the planning board since they cooperated so well with this board on Wal-Mart and Hudson Valley Federal Credit Union. We have not looked at the traffic, what we did look at more locally was the movement within the site and that's why the applicant's representative did indicate he's absolutely correct that we took the effort of getting this to the fire inspectors right off the bat and they have already modified this I would say significantly from the

original layout.

MR. ARGENIO: They're accepting a 20 foot wide loop?

MR. EDSALL: They want the 30 because it's a single story and it's not a public area, my understanding they want the 30 and then the 20 foot out.

MR. KOEHLER: That would be the apparatus operating area within the 30 and then the 20 is just for them to be able to get out.

MR. ARGENIO: You know what I'd like to see, I'm going to tell you what you, what I'd like to see from you guys and I'm sure it wouldn't be that difficult for you to acquire it, a rendering of the building.

MR. SLATER: Aren't there elevations?

MR. ARGENIO: I don't want elevations, I'd like a rendering, I'm sure Sonic has, pick a number, three typical store fronts or four typical store fronts or some number of typical store front that we, they do, that information has got to be out there.

MR. SLATER: Renderings are no problem.

MR. EDSALL: Mr. Chairman, if he's got the Kingston facility are you using the same appearance on this one?

MR. SLATER: Just recently they have made some modifications to the prototype building but I actually saw a rendering for the prototype.

MR. ARGENIO: Call them up, 1-800-SONIC, tell them to mail it to you.

MR. SLATER: It's easier than that, it's going to be similar but not identical.

MR. CORDISCO: It would be advantageous to have not only the prototype but photos of the existing Kingston facility that will save us a trip up there.

MR. KOEHLER: Or you can go up there and try the food out.

MR. VAN LEEUWEN: Flag pole?

MR. ARGENIO: Include a flag pole. Getting back to the traffic thing so did we land that plane?

MR. EDSALL: I think it's been addressed, I don't have at this point any concern with the internal traffic to the overall complex given the location that they're accessing it's kind of mid road as it may be, they're not, the sight lines are good, they're not, if they had an entrance coming out on Liner Road it could be problematic with the cuing for the state highway but there's no access.

MR. ARGENIO: Most of the traffic now wants to go to the controlled intersection, not a lot of people on Liner Road and Liner Road is very easy to get out of, you wait for the light to cycle and you pull out.

MR. EDSALL: But they're coming out in a location that's not near other curb cuts, it's substantially away from other intersections.

MR. ARGENIO: Somebody did some good pre-planning for this lot as you said, the pond is sized appropriately, I happen to know cause I built it, P.S., so and I know also know that the water and the sewer's been brought in already.

MR. KOEHLER: There are stubs and with regard to traffic itself, Wal-Mart had anticipated this to be as a gas station use which would have a higher in and out so they did, it was all considered in the, in both the

site plan review of the overall complex and the SEQRA review.

MR. ARGENIO: Okay, somebody comment if they have a comment?

MR. SCHLESINGER: How big is the building in Kingston?

MR. SLATER: Building in Kingston is 1,750 square feet, the difference is the Kingston building they used to have a 60 foot prototype and 68 foot length, the new prototypes are 60 foot and 73 so we're actually going to the smaller building so it will be eight foot shorter, they look very similar but I'll provide you with both pictures and the rendering.

MR. SCHLESINGER: Just curious, 1,500 square feet you're putting out a lot of food in that small building.

MR. SLATER: Yes, it's actually the 60 foot building is the real typical Sonic, over the last 54 years the purpose of the 68 foot building in Kingston and we're under construction in Wappingers Falls right now with the 68 was being the first ones in New York we wanted a little extra storage, we didn't know where the distribution was coming from, its now coming from Binghamton so we don't need the storage space.

MR. SCHLESINGER: Is that strictly Sonic distribution center in Binghamton?

MR. SLATER: No, it's a national distribution.

MR. SCHLESINGER: I don't know how many parking spaces he's got but all right.

MR. ARGENIO: They're flipping them quick. If anybody sees fit, I'll accept a motion that we assume lead agency under SEQRA.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Anybody else have any comments? It's early, they have to go to county.

MR. EDSALL: One thing that we need to discuss which is the only area that's of a little concern to me and this is a little unique this type of operation is the signage and I have coordinated--

MR. ARGENIO: Sign F and sign G?

MR. EDSALL: As signage as in there's 35 signs on the site, if you include all the, as they call them menu boards if you look at sheet 2 there's a schedule for the signs.

MR. ARGENIO: What do you want to talk about?

MR. EDSALL: Well--

MR. ARGENIO: When you have a sign on the building does that count in that count or is that included in that count I should say?

MR. EDSALL: The only signs when the sign code was written that were waived is as far as counting as square footage there was a provision for gas stations because it was acknowledged that over every gas pump you had to have signs for the prices and but it was very specific as to what was excluded. Here we've got a total of 35 signs on the site and that's not including traffic control signs, as I understand it, these are all signs for operation of the facilities.

MR. ARGENIO: What does the building inspector have to say?

MS. GALLAGHER: Some of those would be exempt but like the wall signs and freestanding signs they would need variances cause they're only allowed one freestanding sign. How many entrances in and out?

MR. KOEHLER: There's the one entrance and also serves as an exit, basically there'd be the enter signs similar to this and exit is basically the same.

MS. GALLAGHER: Into the building is there just one entrance for the restaurant?

MR. KOEHLER: Yeah, the restroom is going to be right over in here.

MS. GALLAGHER: So they're only allowed one facade sign.

MR. ARGENIO: I think if there's a million signs all over the place it's going to be a distracting mess.

MR. EDSALL: Well, I think what they need to do is understand that they in all likelihood would have to go to the ZBA for some, to some extent they need variances.

MS. GALLAGHER: The majority of the signs though are

what he's saying are the menu boards, 20 of those signs are those menu boards that they're going to pull up to and ring the buzzer.

MR. GALLAGHER: The 3 x 5?

MS. GALLAGHER: I think they're 2 x 4, I mean, they're small, we would just include, we would want to see a picture of those signs at the building department.

MR. KOEHLER: Yeah, this is, it's very hard to see but basically this is what you're going to be pulling up to and touch that button right there and it's got the whole menu on it.

MR. SCHLESINGER: I don't know that the definition of sign necessarily means in this instance it's a menu board, it's not an advisement poster.

MR. KOEHLER: It's how we have to operate, it's as if you're going to the restaurant and here's your menu, this is our menu.

MR. SCHLESINGER: I understand.

MR. SLATER: If I may because this has come up before in the other towns, the menu boards themselves it was determined that since it's really, it's really just a small menu about the size of that and a little speaker and just back lit they don't shoot any light off those we're determined not to be signs, however, some of the things that they show on the building and I'm not sure which ones Dan's showing here we're determined to be signs, for instance, in Wappingers we took them off the building, we wouldn't be interested in seeking variances for like the blue, are these the blue dots?

MR. KOEHLER: The poster boards.

MR. SLATER: Poster boards because those were

determined to be signs and we were allowed only X number of signs on the building in which case we like to have the Sonic sign on the tower so people know we're there. But again, the menu house themselves which are about the size of Dan's plan were determined not to be signs.

MR. ARGENIO: Mark, relative to menu boards?

MR. EDSALL: My concern is that I don't believe that we here tonight have the ability to interpret the code. The code was written very tight, very specific, I think if the determination has to be made that menu board is not a sign the Zoning Board should be making that decision, I think that's probably the practical answer.

MR. ARGENIO: I don't know that I agree with you.

MR. EDSALL: I'm looking at just what the law says.

MR. CORDISCO: And the code is a restrictive code, it's not allowed in the code or, you know, it's not described under the code then it's an issue for the zoning board.

MS. GALLAGHER: They would be going to the zoning board anyway.

MR. ARGENIO: I'm okay with that.

MS. GALLAGHER: So we would include those 20 menu signs.

MR. ARGENIO: In those numbers I understand, what I don't understand is why we cannot interpret the code.

MR. CORDISCO: That's a zoning board function and they, it may be an interpretation which is a less stringent application because an interpretation is just that, it's an interpretation rather than a variance where

they have to met the criteria.

MR. EDSALL: I was intending to send this over as a variance and/or interpretation and list the signs. Now I was going to suggest to them that they decide what signs they can live with and live without. I will be very honest with you again, I'm not the attorney but planning boards can't make interpretations of the code, that's, the code's written very specific and we suffered in writing it because there were so many little signs appearing, I would rather if they're going to the zoning board have the zoning board give them the leeway so that every business establishment in the Town of New Windsor doesn't put up 20 little signs and say they're my menu for the sandwiches I'm selling inside, that's the Pandora's Box.

MR. ARGENIO: Okay, okay, okay.

MR. EDSALL: That we don't want to happen.

MR. ARGENIO: Okay, again, Mark, you always come with a lot of history.

MR. EDSALL: I write the code and I suffered in being concerned about what we were trying to correct.

MR. CORDISCO: If this board were to interpret the code then you wouldn't really need a zoning board.

MR. ARGENIO: That's not true, who would issue the variances? Not this board, counsel.

MR. CORDISCO: Fair enough.

MR. EDSALL: I would suggest if the board has an opinion on the signs as to the planning aspect you may want to share them in the minutes, I would ask the applicant to look.

MR. ARGENIO: I'll ask the board members about the signs, Neil and Howard, what do you guys think about the signs, the menu boards?

MR. SCHLESINGER: Menus.

MR. ARGENIO: In six paragraphs or less.

MR. SCHLESINGER: Menus.

MR. ARGENIO: They're not signs?

MR. SCHLESINGER: No.

MR. ARGENIO: I agree.

MR. BROWN: That's how I feel.

MR. GALLAGHER: I have been to the Kingston operation and it's part of their operation, it's the way Sonic operates.

MR. VAN LEEUWEN: I think it should go to the zoning board, let them.

MR. ARGENIO: I'm okay with that but I think they're menus.

MR. EDSALL: Now, on the other signs the town has a maximum number of signs you can have on a site, both facade and freestanding, you should look to see what you can live with cause it's always good to minimize the amount of variances you're asking for.

MR. SLATER: Just my understanding was that the application was to fit within those parameters, we're not seeking to go outside of the town's parameters.

MR. EDSALL: We can work with them if there's something that they need a variance for they can't get what they

want without a variance we will with your authorization we will make the referral.

MR. KOEHLER: One of the signs that's on the schedule we have actually taken off since and that would be one of the facade signs on the tower.

MR. GALLAGHER: Two of the signs are enter and exit.

MR. KOEHLER: Located on the tower, we're going to have the Sonic then on the, as you're pulling into the site there'd be a circular sign that says drive-thru open or open on it.

MR. ARGENIO: You should show them on there.

MR. KOEHLER: I have talked to the applicant about it and since the code specifically says one facade sign per use and that we've only got the one use we're going to go with the Delta sign.

MR. ARGENIO: Let me ask this question, Mark, then do we bounce this in the direction at this point or do you think there's more findings that need to be made?

MR. EDSALL: I need to, the problem I've got is I can't answer that off the top of my head because there's 35 signs on the plan having almost 340 square feet of area and I need to know if they're two sided, one sided.

MR. ARGENIO: I understand you don't know what we'd be asking for.

MR. EDSALL: But I can tell you that I will work with them to get an updated list and try to minimize what we're dealing with.

MR. CORDISCO: When they do go to the zoning board, the zoning board gets a copy of the minutes from this board's meeting so the zoning board will have the

minutes and also have an understanding that the majority of this board feels that the menu signs are menus rather than signs so that should be helpful.

MR. ARGENIO: In this application now for the next guy who maybe wants to post his menus up in a different fashion maybe they aren't, aren't menus, they're signs that may be a different discussion.

MR. SLATER: Besides the menu housing we want to work within the town's allowances, nothing beyond that, I'm sure that we can stay within that criteria and be quite happy.

MR. EDSALL: Because I knew they had put quite a bit of effort in to react to the fire inspector's comments and addressed the discussions at the workshop, I did make a complete review even though it may have to go to the ZBA so they've got the full list, I've provided it to them, I think by the time they get back from the Zoning Board if they have addressed all these comments they should be in real good shape and we won't have much to say.

MR. CORDISCO: If the referrals can also be made not only to the Newburgh Planning Board but also to the Orange County Planning Department those could be made now.

MR. ARGENIO: I believe the plan is in a sufficient state of fitness that we can do that.

MR. EDSALL: We'll prepare all those referrals.

MR. ARGENIO: What else are you looking for tonight?

MR. KOEHLER: Well, I, you know, just trying to breeze through this really quickly, one of the points that we may try to make clear on our plan was that we're treating the canopy as an accessory structure and

therefore, the setbacks are not the same as the primary building and Mark I don't know if you had ended up--

MR. EDSALL: No, I think we concurred on that.

MR. ARGENIO: You don't hear anybody making any noise about that?

MR. EDSALL: As long as they're not greater than 15 foot or closer to the property line than 10 foot as long as this board doesn't, and again, if they go to the Zoning Board, if you have a problem with it, if not I think we're concluding that it's an accessory structure.

MR. KOEHLER: Okay, just didn't know if we needed to get an interpretation while we're at the zoning board on that.

MR. ARGENIO: Let it go.

MR. EDSALL: You're okay with them, they're within the guidelines.

MR. ARGENIO: I think so. Anybody else has a problem with that?

MR. VAN LEEUWEN: Make a motion to adjourn.

MR. ARGENIO: Anything else?

MR. KOEHLER: No, based on him being tired I'm just going to say no, I'm going to go.

MR. ARGENIO: The professionals, do you have any problems Dominic or Mark?

MR. CORDISCO: No

DISCUSSION

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MR. EDSALL: Yes, one quick item there was an applicant that appeared before the board for the Price Chopper property to take the retail space.

MR. ARGENIO: And make it a kid's place?

MR. EDSALL: Apparently, that arrangement lease didn't work out, they're looking to go over to where the post office is, Upskate, and I got to tell you that place has got more excess parking so--

MR. ARGENIO: Does anybody have a problem with that? Does anybody see the need for them to come back to this board or can we just leave it with Jennifer?

MR. BROWN: Leave it with Jennifer.

MR. SCHLESINGER: For what reason?

MR. ARGENIO: They're doing the same thing but going to a different mall in town.

MR. EDSALL: And again, there are no outside improvements, it's purely interior changes.

MR. GALLAGHER: Is it going where the antique was?

MS. GALLAGHER: Right in the Upskate.

MR. ARGENIO: Jennifer, handle it please.

MR. EDSALL: That's it.

MR. ARGENIO: Neil or Howard? Motion to adjourn.

MR. BROWN: Motion to adjourn.

MR. SCHLESINGER: Second it.

August 19, 2009

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ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer

