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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

----- X

In the Matter of

STEWART'S SHOPS

Project No. 14-7010
1872 Route 9W
Section 103.1; Block 2; Lot 88.200

----- X

SKETCH - SITE PLAN

Date: June 16, 2014
Time: 7:30 p.m.
Place: Town of Marlborough
Town Hall
1650 Route 9W
Milton, NY 12547

BOARD MEMBERS: FRANK RICCIARDONE, Acting Chairman
CHRISTOPHER BRAND
BEN TRAPANI
MICHAEL LOGUE
JOEL TRUNCALI
WALT FALKENBERG

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND

APPLICANT'S REPRESENTATIVE: CHUCK MARSHALL

----- X

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

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STEWART'S SHOPS

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MR. RICCIARDONE: I'd like to make
the meeting come to order.

(Pledge of Allegiance.)

MR. RICCIARDONE: Joel, if you
would the read agenda.

MR. TRUNCALI: Agenda, Town of
Marlborough Planning Board, June 16, 2014.
Regular meeting 7:30 p.m. Approval of
stenographic minutes for 5/27 and 5/5. Stewart's
Shops, sketch, site plan; Gallo Realty,
extension, subdivision; C. Wilklow, discussion,
lot line revision; J. Weed, discussion, site
plan; Wenz Consolidation, sketch, lot line
revision. Next deadline, Friday, June 20th.
Next scheduled meeting, Monday, July 7th.

MR. RICCIARDONE: The stenographic
minutes for 4/27/14, has everybody got them, read
them or --

MR. TRUNCALI: I'm good with them.

MR. RICCIARDONE: A motion to accept
them?

MR. TRUNCALI: I'll make that motion.

MR. BRAND: I'll second.

MR. RICCIARDONE: Who seconded? Chris.

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STEWART'S SHOPS

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Okay. All in favor?

MR. BRAND: Aye.

MR. TRAPANI: Aye.

MR. LOGUE: Aye.

MR. TRUNCALI: Aye.

MR. FALKENBERG: Aye.

MR. RICCIARDONE: Aye.

Okay. I'm assuming that 5/5 we didn't
read. I know I didn't read.

MS. NATLAND: You have them already.

MR. RICCIARDONE: We'll table them.

MR. TRUNCALI: I wasn't here.

MR. LOGUE: We can table them.

MR. RICCIARDONE: We're okay to table
them for the next meeting?

MR. FALKENBERG: Yes.

MR. RICCIARDONE: Okay. First on the
agenda, Stewart's Shop, sketch.

MR. MARSHALL: Is it all right if I
just sit down?

MR. HINES: That's our normal
procedure.

MR. MARSHALL: I'm Chuck Marshall, I'm
the real estate representative from Stewart's.

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We're basically -- what happened is that we're doing new tanks. Nothing is wrong with these tanks. We're ahead of DEC standards. As a self-insured company, any time we have the opportunity to replace single wall or double wall steel tanks with double wall fiberglass tanks, we do it. That's what this is here.

When we do the tank replacement, because it is an inconvenience to the store, we look at what other features we might be able to change to either bring them up to standards or make some type of internal change to improve the store as it sits.

What you'll see here is the 864 square foot addition and then the freezer pad outside, that will be just compressors. The freezer itself will be internal.

They deliver on the north elevation, which in essence remains the same. The likelihood here is that you'll just see -- either the cooler and freezer will shift and you'll see an expansion and the cooler doors.

We're doing a customer -- an additional customer access bathroom and the width in between

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aisles have changed.

We're doing a lot of this. This is probably -- this is a redevelopment is what we're doing the most of. We have obviously locations that people know, and we're just trying to improve the stores.

So with that, basically the 864 square foot addition is primarily all -- it will be visible from the south and north elevations but it will pretty much just be on the backside of the building which is already essentially hidden from the road.

The most visible changes are here. I don't even want to call that visible, but --

MR. HINES: They're really not.

MR. MARSHALL: Yeah. But the same material that's currently there, the pro-panel, will be maintained. That's -- I hate to oversimplify it but that's it.

The one thing I will say is companywide we're going through a sign change. Right now we have the single Stewart's and the ownership of the company feels it's important that we be branded as Stewart's Shops with the swish. They

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equate it to Nike. I would have to think there's a difference between Stewart's and Nike.

The freestanding sign would remain. Depending on how your code measures signs, the proposed building sign would decrease in square footage.

There's already LED lighting in the soffit and canopy, so you wouldn't really see any change in that. If we were doing a larger change it would be LED lighting throughout. We are proposing an additional yard light, so that will be LED.

MR. RICCIARDONE: This is what you're proposing for the sign?

MR. MARSHALL: This is the existing sign. Again, the square footage of the sign changes -- the square footage of the total sign remains, it just gets broken up differently between the LED --

MR. RICCIARDONE: And the price is --

MR. MARSHALL: Not going to be 2.99.

MR. RICCIARDONE: I was hoping.

MR. MARSHALL: You know what the funniest thing is, I do this like two or three

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STEWART'S SHOPS

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times a night, and besides not having dinner with my wife ever, --

MR. HINES: You're preaching to the choir.

MR. MARSHALL: -- the thing I hear the most of is are those the gas prices and why can't I use my milk club card at every Stewart's.

MR. HINES: And why is that? I'm only kidding.

MR. MARSHALL: Stewart's is its own profit center so the accounting gets --

MR. HINES: I concur this is a pretty simple application. Again, it's 12 by 72 or 800 some square feet to the rear of the building. I don't know anybody would notice. It meets the bulk requirements for the zone. It's a Type II action, commercial less than 4,000 square feet, so there's no SEQRA review required on it. County Planning approval is required because it's along the County and State highways. A public hearing is also required on an amended site plan. It's pretty straightforward, as the applicant's rep just described.

MR. RICCIARDONE: I'm assuming the sign

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on top is going to change?

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

In the submission the way you see is the existing elevation is on the top and the proposed elevations are on the bottom.

MR. RICCIARDONE: It's here for sketch.

MR. HINES: It's a site plan actually, so we don't even have sketch.

MR. RICCIARDONE: It says sketch.

MR. HINES: It could be scheduled for a public hearing.

MR. RICCIARDONE: Okay. Do we have any questions on it?

MR. LOGUE: It looks great.

MR. BRAND: Will the store be open during this?

MR. MARSHALL: It might close early for some of the internal work, but we don't close stores. Yeah. That's pretty much -- we use the same company throughout all of our changes, so they know the access control for making the store be open.

MR. RICCIARDONE: Okay. I guess there's no questions. Do you want to schedule

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this for a hearing?

MR. TRUNCALI: I'll make that motion.

MR. LOGUE: I'll second it.

MR. RICCIARDONE: I have a motion and a second. All in favor, say aye.

MR. BRAND: Aye.

MR. TRAPANI: Aye.

MR. LOGUE: Aye.

MR. TRUNCALI: Aye.

MR. FALKENBERG: Aye.

MR. RICCIARDONE: Aye.

MR. HINES: It would be July 7th.

MR. RICCIARDONE: July 7th for the public. I'm sure that's okay with everyone.

MR. HINES: We probably won't hear back from County Planning by then. We may.

MR. FALKENBERG: When is the first Wednesday?

MR. HINES: The 2nd.

MR. MARSHALL: Just out of curiosity, I'll be on vacation so you'll see one of my co-workers that night anyway, but I don't -- as a Board do you approve contingent upon County Planning?

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MR. HINES: Not County Planning.

MR. MARSHALL: I mean do you want to wait when you're -- when is your meeting after the 7th?

MS. NATLAND: In August.

MR. RICCIARDONE: That would be the following month.

MR. HINES: August 4th.

MR. MARSHALL: I'm just -- I mean without --

MR. HINES: You're the first applicant that ever wanted to put anything off.

MR. MARSHALL: No, no.

MR. RICCIARDONE: He doesn't want to miss a meeting, number one.

MR. MARSHALL: That's not -- no, no. I am going on vacation with my wife.

MR. HINES: If you have your public hearing on July 7th, this Board could take action on July 21st. We have two meetings a month.

MR. MARSHALL: Okay.

MR. HINES: Even if we didn't hear back from County Planning, it would only cost you two weeks, not the four.

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MR. MARSHALL: The other option is if you set it for the --

MR. RICCIARDONE: We don't do public hearings, only the first Monday of the month.

MR. BLASS: Are you trying to avoid two meetings in favor of one meeting?

MR. MARSHALL: Not for myself. I mean I'm trying to save your agenda.

MR. BLASS: If that's the goal, you probably would want to go to August.

MR. MARSHALL: That's fine. We'll do it the 7th and the 21st. I was not trying to complicate it. I was actually trying to simplify it. But without doing the public hearing the second meeting, I completely understand.

MR. RICCIARDONE: So we're staying with the 7th for a public hearing.

MR. FALKENBERG: The County, if you call them and get Howard to tell them that they need the results.

MR. HINES: There's five Mondays in June, so it works out we could have it.

MR. FALKENBERG: Maybe the first Wednesday of the month. That works.

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MR. RICCIARDONE: So this is good for site plan?

MR. HINES: I think so. For the scope of the work it has proposed, yes.

MR. RICCIARDONE: We need a motion for site plan or just --

MR. HINES: We're going to do that at the public hearing. Setting the public hearing is the only action we can take tonight.

MR. MARSHALL: Thank you.

(Time noted: 7:41 p.m.)

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

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

DATED: July 3, 2014

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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

----- X
In the Matter of

GALLO REALTY

Project No. 11-5008
Idlewild Road
Section 108.2; Block 9; Lot 40.250

----- X

EXTENSION - SUBDIVISION

Date: June 16, 2014
Time: 7:41 p.m.
Place: Town of Marlborough
Town Hall
1650 Route 9W
Milton, NY 12547

BOARD MEMBERS: FRANK RICCIARDONE, Acting Chairman
CHRISTOPHER BRAND
BEN TRAPANI
MICHAEL LOGUE
JOEL TRUNCALI
WALT FALKENBERG

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND

APPLICANT'S REPRESENTATIVE: JOSEPH POMARICO

----- X

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MR. RICCIARDONE: Second on the agenda is Gallo Realty.

MR. POMARICO: Good evening. I'm Joe Pomarico of Talcot Engineering on behalf of Charles Brown who couldn't make it, representing Gallo Realty.

We are looking for a ninety-day extension. We're waiting for the bond estimate approval and also for the attorneys to work out some of the maintenance agreement.

MR. BLASS: My recollection is that we did an extension on this recently.

MR. HINES: Mm'hm'.

MS. NATLAND: Yes.

MR. BLASS: So do you have a copy of that, Kathi, the last extension?

MS. NATLAND: I don't have it here.

MR. BLASS: You don't have a copy of the last extension?

MR. POMARICO: I do not.

MR. BLASS: I'm trying to get that in order to pick a date which is ninety days from the expiration. We're trying to get these on a system, on a cycle.

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MR. POMARICO: Unfortunately I do not.

MR. TRUNCALI: I think May 5th was
the --

MR. HINES: Do we want to do it just
the ninety days and fill in the date in a letter?

MR. RICCIARDONE: Then ninety days from
the last extension.

MS. NATLAND: From the last one.

MR. BLASS: I think I have -- does June
17th ring a bell?

MR. HINES: Which would be why they're
here right now.

MR. BLASS: We could make it three
months from June 17th. So September 17th.

MR. HINES: That actually coincides
with their original approval two years ago.

MR. BLASS: Perfect. Luckily I have
this scratch sheet. So it would be September 17,
2014.

MR. RICCIARDONE: Everybody good with
that?

MR. LOGUE: Mm'hm'.

MR. RICCIARDONE: Okay. Do we need a
motion? I'll do a motion for extension to

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GALLO REALTY

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September 17th, ninety days.

MR. TRUNCALI: I'll make that motion.

MR. TRAPANI: I'll second it.

MR. RICCIARDONE: Joel and Ben. All in favor?

MR. BRAND: Aye.

MR. TRAPANI: Aye.

MR. LOGUE: Aye.

MR. TRUNCALI: Aye.

MR. FALKENBERG: Aye.

MR. RICCIARDONE: Aye.

All right.

MR. POMARICO: Thank you very much.

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

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

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

DATED: July 3, 2014

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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

----- X

In the Matter of

J. WEED

43 Mt. Zion Road
Section 108.2; Block 2; Lot 42.150

----- X

EXTENSION - SUBDIVISION

Date: June 16, 2014
Time: 7:46 p.m.
Place: Town of Marlborough
Town Hall
1650 Route 9W
Milton, NY 12547

BOARD MEMBERS: FRANK RICCIARDONE, Acting Chairman
CHRISTOPHER BRAND
BEN TRAPANI
MICHAEL LOGUE
JOEL TRUNCALI
WALT FALKENBERG

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND

APPLICANT'S REPRESENTATIVE: PATRICIA BROOKS

----- X

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J. WEED

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MR. RICCIARDONE: J. Weed is next.

This is for discussion only, site plan.

MS. BROOKS: So I wanted to discuss with the Board the existing Weed Farm Market located on Mt. Zion Road. Basically John is looking to add, as part of his existing farm operation, a farm winery license.

So basically the site right now, the majority of the traffic is directed to come into this location. This is where all the pick-your-own parking is. We have two buildings back here that are used for farm market sales, B-1 are the bathrooms and this back here is all truck crops. This is additional --

MR. RICCIARDONE: Who crop?

MS. BROOKS: Truck crop. Not orchard.

MR. HINES: Tomatoes.

MR. FALKENBERG: Peppers.

MS. BROOKS: This is also planted as a summer garden but fall parking after the truck crops are done. There's a playground area here for children, the corn maze is down in this direction which is used seasonally, and a small petting zoo in the summertime.

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J. WEED

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There was some question about what needs to be done in order for the farm winery to operate. I guess at the point in time that I originally spoke to Pat about it and spoke to Tommy Corcoran about it we were a little bit unclear as to exactly what the laws were as far as how to move forward with it. We've since gotten some guidance, and it looks like there is such a thing as a section -- Article 6 Section 76-A, farm winery license.

MR. HINES: It's relatively new. The State is encouraging them actively.

MS. BROOKS: Yes. The State is very actively encouraging them right now as accessory uses to farm operations because it tends to bring in more tourism.

So then I went to the Ag & Markets Law because we're trying to figure out -- John is not in any way looking to circumvent what needs to be done. Obviously he contracted with us to do an as-built site plan so that the Board would have a copy of it and the Town would have a copy of it, but we also would like to work with the Ag & Markets Law and not go through a process that we

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J. WEED

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don't need to go through. So basically if you go on to the Ag & Markets website, they have a lot of guidelines on there that assist those of us that are trying to work with the farm markets and figure out what needs to be done. Basically the change that changed what they consider to fall underneath the umbrella of a farm operation so that it will now include the farm winery licenses. Basically John's goal is not to run a winery there. He's very successful with his farm operations. However, the ability to be able to sell New York State wine and hard cider, much of which is now being grown in the area, would certainly be a small added benefit to what he already has as a successful farm operation.

So we are asking the Board to review the site plan as a courtesy, because he does fall under the Ag & Markets Law, and he would like to file with the building department and he would like to file with the Planning Board and say thank you very much. That's what our goal is this evening.

MR. RICCIARDONE: Is he just purchasing wine off the property to sell it or --

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J. WEED

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MS. BROOKS: He's not allowed to.

MR. RICCIARDONE: -- or is he going to make it?

MS. BROOKS: He has to make it.

MR. RICCIARDONE: He has to make it from his own grapes and own cider?

MS. BROOKS: He's allowed to do some of it off site but in order to get this license some of it has to be done on site. As he's getting under operation some of the materials --

MR. RICCIARDONE: He can buy the juices outside and things like that?

MS. BROOKS: Correct. Yup. Yup. The same thing with the cider. I guess where I went to get my guidance is I knew they just opened one in the Town of Lloyd, so I went to the Town of Lloyd and said instead of me reinventing the wheel can you tell me what regulations this -- I did my own research, downloaded the information, and that basically is what we've been able to come up with.

MR. BRAND: He'll be selling his own in addition to local wineries?

MS. BROOKS: I'm sorry, say that again.

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J. WEED

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MR. BRAND: It will be his own product as well as things from surrounding wineries?

MS. BROOKS: Correct. The same thing with the hard cider.

MR. RICCIARDONE: So as far as the guidelines to farm, do we have a provision in our code as far as farm market wineries?

MR. HINES: No.

MS. BROOKS: Because it falls under Ag & Markets.

MR. HINES: My question always is what's the intensity of use. Is it going to bring in twenty bus loads? Obviously this site brings in many bus loads during certain times of the year.

MS. BROOKS: This particular component of the operation is not intended, I don't think -- John, correct me if I'm wrong please -- you know, to be marketed as a -- as bringing people in, come to a wine tasting. People who come there and are --

MR. WEED: It's a family event as it is.

MS. BROOKS: He wants to keep it that

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J. WEED

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way.

MR. TRUNCALI: Is it only going to take place while the pick your own operation is going on?

MR. WEED: Yes.

MS. BROOKS: It would not have its own separate set of operating hours.

MR. WEED: I don't feel like working seven days a week, twelve months a year. While we're open from August through mid November.

MR. HINES: It's here for discussion.

MS. BROOKS: Yeah, because my contention is we don't need a site plan because we fall under the farm operation of the Ag & Markets Law, but I wanted to discuss it.

MR. BLASS: So that your interpretation is that the rule is --

MS. BROOKS: Mm'hm'.

MR. BLASS: -- that under the Ag & Markets Law a "farm operation" is exempt from zoning?

MS. BROOKS: Not exempt totally from zoning. If you go through it they can look at things like traffic and so on and so forth. This

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J. WEED

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Board never has done so on any of the farm markets in the community. The question just came up with this particular application when alcohol was going to be added to the farm market because the question was can alcohol be considered part of a farm operation. So the answer to that is yes, because the State has determined that they want to encourage this type of use to be coincident with farm operations.

MR. BLASS: So that a farmers market may -- I don't know the answer. A farm market operation may not require a site plan in this zone --

MS. BROOKS: Correct.

MR. BLASS: -- under the code?

MS. BROOKS: That's correct.

MR. BLASS: What zone is it?

MS. BROOKS: RAG-1.

MR. BLASS: Let me take a quick check. Where I'm probably going to go with this is that this seems to be a zoning administrator's determination as to whether or not the use is permitted or not permitted within the zone.

MS. BROOKS: Okay.

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J. WEED

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MR. BLASS: That's typically zoning administrator business and not typically Planning Board business. Has Tom made a determination yet?

MS. BROOKS: Again, the only people who have talked about it are Tom and Pat. We were trying to go back and forth to find out what was needed.

MR. HINES: I was struggling with we recently had wineries come through, which was a new use on a site, and we had -- we ran that through a site plan and got approval. It wasn't an operating farm at this time.

MS. BROOKS: Correct. They were not an operating farm at that time in the Ag district meeting the criteria of a farm operation.

MR. RICCIARDONE: But the wineries, they do tastings and open bottles and things like that.

MR. HINES: I think that's the way this place is going to make its money.

MR. LOGUE: A basket of peaches and a bottle of wine and call it a day.

MS. BROOKS: I told him he should have

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J. WEED

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cheese.

MR. LOGUE: That's a great idea.

MS. BROOKS: Again, this primarily is a family operation but --

MR. RICCIARDONE: There's going to be picnic tables out there, they get the bread and the cheese and the wine and the apples and cider.

MS. BROOKS: There already are. Basically the cold storage area, a small portion of it where we called it farm winery would be converted.

MR. RICCIARDONE: That building exists?

MS. BROOKS: That building exists. It was where the packing house was. They are not packing on the site any more so some of that space would be used for the farm winery.

MR. HINES: This has grown on its own. It's a very busy site during the U-pick. You can fill this with buses.

MR. RICCIARDONE: They're going to sell and have open bottles of liquor?

MS. BROOKS: Correct. That's why they need an alcohol beverage license.

MR. BLASS: It seems to me --

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MS. BROOKS: Go back to Tommy?

MR. BLASS: -- if the applicant is here as a courtesy simply to show the Planning Board a picture, that sort of presupposes a position that the Planning Board doesn't have any site plan power to begin with. So why is it here would be the next natural question, and why isn't it with Tom to basically make a determination?

MS. BROOKS: I can go back to Tom now. In consultation with both Tom and Pat, it was kind of like well, yeah, bring it to the Planning Board and, you know, show them a map, an as-built site plan --

MR. BLASS: And ask for?

MS. BROOKS: Not ask for anything. Basically state my case. So now I will go back to Tom --

MR. HINES: We did discuss that. We did have wineries come through here, actual new wineries. In that case it was a residential --

MR. RICCIARDONE: Wineries are on a different plane than this farm market.

MR. HINES: They're going to produce this on site. I don't know if it's very

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J. WEED

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different.

MR. TRUNCALI: You probably just found this information out after --

MR. HINES: I believe these licenses -- it's a new program with the State.

MS. BROOKS: I just got this June 5th. I'm learning as I'm going, too. I had asked for placement on the agenda and then I did a little more research on it. Now I can go back to Tommy. It's a different animal than the one that just got approval because it is in an Ag district, it is an existing farm operation and we're looking to add an accessory --

MR. RICCIARDONE: Are you limited on the amount of wine on site?

MS. BROOKS: Yes.

MR. HINES: It's high. It's 200,000 gallons or something like that.

MS. BROOKS: 150,000 finished gallons.

MR. RICCIARDONE: How many?

MS. BROOKS: 150,000 finished gallons. I don't think -- you're not going that high, are you?

MR. RICCIARDONE: Divide 250,000 into

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J. WEED

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two and that's how many people you can have as a cooperative and make wine, because you're allowed by New York State 200 gallons per person.

MR. HINES: This is a different program. It's a separate license I believe than a winery would get.

MS. BROOKS: Yes.

MR. HINES: This is a new -- it's only six months old, I think, the regulations.

MS. BROOKS: It's basically just for people who already have existing farm operations. It's to operate a farm winery for the manufacture of wine or cider at the premises specifically designated on the license.

MR. RICCIARDONE: I don't think we have really any tremendous jurisdiction over this, do we? I mean it's under Ag.

MR. BLASS: Not unless Tom says site plan is required. The only theory that I can see that a site plan is required is it's a change of use to some degree that is sufficient enough to trigger site plan.

MR. BLASS: It's definitely a principal use in an RAG zone as a farming operation, which

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J. WEED

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is a principally permitted use.

The other question is whether or not a site plan is required with respect to this change of activity on a pre-existing --

MR. RICCIARDONE: If Tommy says come back, you're coming back. I don't know what jurisdiction besides putting another building on that site or something like that --

MS. BROOKS: Again, I think finding this new law may look at things differently.

MR. RICCIARDONE: Okay.

MS. BROOKS: All right. Thank you very much.

John, do you have any other questions?

MR. WEED: No.

MR. RICCIARDONE: We'll close the discussion.

(Time noted: 7:59 p.m.)

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

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

DATED: July 3, 2014

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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

----- X
In the Matter of

WENZ CONSOLIDATION
(14-7003)
Plattekill Road
Section 108.2; Block 9; Lot 33.1/3/4/5 & 34

----- X

SKETCH - LOT LINE REVISION

Date: June 16, 2014
Time: 7:59 p.m.
Place: Town of Marlborough
Town Hall
1650 Route 9W
Milton, NY 12547

BOARD MEMBERS: FRANK RICCIARDONE, Acting Chairman
CHRISTOPHER BRAND
BEN TRAPANI
MICHAEL LOGUE
JOEL TRUNCALI
WALT FALKENBERG

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
KATHI NATLAND

APPLICANT'S REPRESENTATIVE: DARREN SCALZO

----- X

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

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MR. SCALZO: We appeared here approximately six weeks ago. There were some clarification issues regarding the way the code addresses shared driveways. Since that time the maps have been revised. I do show the center line of the shared driveway anticipating a 20-foot wide right-of-way leading up to the line between proposed combined new lot 1 and combined lot 3 -- pardon me, combined new lot 2.

I also added a few notes. 10 through 12 have been modified in the general consolidation.

Just with regard to the rights of ingress and egress for that shared driveway, from what I understand a letter is forthcoming, or may already be in the possession of the Board, from the fire chief which he has reviewed the driveway which continues -- there are actually two accesses onto Plattekill Road. It's a loop. It's a horseshoe. There's a note on the map also which states the driveways will be maintained and kept passable for emergency vehicle access.

MR. RICCIARDONE: So you're going to continue this?

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MR. SCALZO: That's correct. It's not going to go away. It's for emergency vehicles only and it's not for any one of the other lots to utilize to get down to Plattekill Road through the homestead Wenz lot.

MR. FALKENBERG: Who is going to maintain that part that's going to be abandoned?

MR. SCALZO: It's not going to be abandoned. It's going to be maintained for ingress and egress or access to the one-and-a-half story framed dwelling. It's still going to be their driveway.

MR. FALKENBERG: All the way up?

MR. SCALZO: Yes.

MR. RICCIARDONE: But then there's going to be a maintenance agreement passing over the other driveway?

MR. SCALZO: The reason I stopped right there is the folks that have access through these don't need to have access to combined lot 1. The only entity that's going to need access to lot 1 is the owner of lot 1. He just needs the right to cross over combined lot 2 and the lands of Pacino.

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MR. RICCIARDONE: You're saying he can come out -- this is the way he's coming out. He's not making --

MR. SCALZO: That's correct.

MR. RICCIARDONE: But yet it still exists.

MR. SCALZO: Yes. It's there currently.

MR. RICCIARDONE: I know that.

MR. TRUNCALI: It's the access. It's just going to exist as the emergency access.

MR. RICCIARDONE: Okay. It says emergency access, but what makes it different, a guy making a left --

MR. SCALZO: The only thing is he doesn't have the right -- he doesn't have the legal right to. Part of the notes -- the driveway agreement will need to be, I'll say attached to the filed map, and it also needs -- the driveway agreement needs to be filed with the county clerk's office.

MR. HINES: We're just waiting for a Hatfield and McCoy situation.

MR. TRAPANI: Somebody cuts across

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there to --

MR. SCALZO: It's not an ideal situation. I understand that.

MR. BRAND: It won't be gated or --

MR. RICCIARDONE: My question is --

MR. SCALZO: You know what, I never considered that. Myself, I hadn't seen the letter from the fire chief, if he had any conditions.

MR. RICCIARDONE: We don't have one yet.

MR. SCALZO: I know he's reviewed it.

MR. RICCIARDONE: My question is -- you know, again, if he makes a right-hand turn coming out of lot 1, or even if lot 2 makes a right-hand turn, they're going to go over this -- they're passing over this.

MR. HINES: You've got the Hatfields and McCoys for sure.

MR. BRAND: It's pretty close. I drove the loop. It's pretty close to those houses that are in there. I would be a little aggravated if cars were driving by my house using it as a thoroughfare.

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MR. RICCIARDONE: If he sells these lots, which I assuming he's going to do, I just don't comprehend if he's going to keep this here, why he doesn't have a maintenance agreement here, or, if he doesn't want a maintenance agreement, just block that off and say no, you can't make a right-hand turn out of your property, you can only make a left and come down this way. Now you've got the maintenance agreement between lot 2 and lot 1, all right, and it's done. That's where the maintenance agreement would be. This stops.

MR. HINES: It's going to be 1, 2 and 3.

MR. SCALZO: Would you consider a sign, much like a -- you won't find it in a standard New York State sign book but -- actually, you would. Emergency vehicles only.

MR. RICCIARDONE: I don't know. I have to go back to look, logical, legal. I just don't comprehend why he just doesn't say okay, this right now is all family but this may not be.

MR. SCALZO: I'm sure it's not going to be.

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MR. RICCIARDONE: So then, you know, like I said, this guy could get very aggravated with these people. Now you have a civil situation going on.

MR. BLASS: Is the intent to use this or not use this?

MR. HINES: They're leaving that because the fire chief wants it.

MR. BLASS: I have one question. Is the intent of the plan to use this corridor on land which is not on lots 1, 2 or 3 as a part of the ingress and egress system for the subdivision?

MR. SCALZO: No. No, it's not. It's for emergency vehicles only.

MR. BLASS: For the benefit of whom? 1, 2 and 3? Lots 1, 2 and 3?

MR. SCALZO: Yes.

MR. BLASS: So this property owner is willing to encumber his or her property with an emergency -- with an easement over this corridor for emergency access and ingress and egress only?

MR. SCALZO: They're part of the owners here. They are aware of --

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MR. BLASS: I'm just trying get an idea of what the plan calls for, setting aside the personalities and people involved. The design calls for this to be an emergency ingress and egress corridor --

MR. SCALZO: That is correct.

MR. BLASS: -- over the lands of a third party?

MR. SCALZO: But they're not a third party. They're part of this application.

MR. HINES: But it could be sold tomorrow.

MR. BLASS: It's not lot 1, it's not lot 2, it's not lot 3.

MR. SCALZO: It's part of the lot line change.

MR. HINES: But it could be sold tomorrow.

MR. BLASS: It could be sold tomorrow as it stands today? It's a separate lot which stands to be enlarged?

MR. SCALZO: That's correct.

MR. BLASS: So this is like a modification of a prior approved subdivision to

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get rid of the road and cul-de-sac and a lot line realignment at the same time?

MR. SCALZO: That is correct.

MR. HINES: It didn't have the lot line realignment last time.

MR. BLASS: So it's both a modification of the prior subdivision and a lot line realignment?

MR. SCALZO: That is correct.

MR. BLASS: Okay. So what I'm hearing is that this corridor is in fact intended to be a part of the ingress and egress system --

MR. RICCIARDONE: Only for emergency.

MR. BLASS: -- for emergency only, and the applicant believes it can get, A, an easement benefiting the owners of lots 1, 2 and 3 forever, and also can arrive at a maintenance agreement -- maintenance arrangement that's acceptable to you guys. So do you have any -- just generally what's the maintenance arrangement? The keeping of it opened, the maintaining of it?

MR. SCALZO: For this section up here?

MR. BLASS: Yes.

MR. SCALZO: Well, you know what, I can

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give you a draft of what I'm proposing,
however I --

MR. BLASS: The intent is to have it
maintained and kept open for that emergency
purpose?

MR. SCALZO: That's correct.

MR. BLASS: It's the intent somebody is
going to do it? Somebody is going to plow it, --

MR. HINES: Fill the potholes.

MR. BLASS: -- fill the potholes, cut
the brush, grade it, whatever.

MR. BRAND: Keep the bridge alive
between the ponds there.

MR. SCALZO: Well, it's a double
culvert.

MR. BRAND: Culverts.

MR. SCALZO: Yeah. That could be
addressed with a note on the plan.

MR. BLASS: -- it's up to you in the
first instance to sort of propose who is going to
do that. I don't think that this guy is going to
be too keen on doing that. He may be willing to,
you know, encumber his parcel with this emergency
only ingress and egress corridor, but for all I

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know he may be willing to maintain it and plow it for the benefit of others, or he may not.

MR. FALKENBERG: It's got to be done.

MR. RICCIARDONE: Maybe sooner or later this guy buys this, buys this and buys this. Now you have three strangers there in the future and now we only have a maintenance agreement for emergency vehicles and everybody is making a right-hand turn coming out of this using this. You're going to wind up with a headache if that happens.

MR. BLASS: Seemingly the solution would be to benefit the parties, the owners of lots 1, 2 and 3 forever are signed on each to a third of the obligation to open and maintain this section on the lands of others forever, and if they don't, then -- if they don't, there's a problem.

MR. SCALZO: That I understand. Really the section that I just outlined here, I know it's difficult to understand what I'm tracing out here, this is going to be maintained by the future owner of this lot or this dwelling. They will need access to their home.

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MR. BLASS: From where?

MR. SCALZO: From here. They're going to go -- that's their driveway to get to this lot already. This is the area that's really --

MR. BLASS: That's possible -- it's possible that they would have an interest in maintaining it so long as they live there. If they go to Italy or Europe for three years and decide not to live there for hypothetically a period of time, then what?

MR. SCALZO: I was going to say the house has been vacant for a few years as of now.

MR. HINES: That doesn't help.

MR. BLASS: That doesn't help. That could continue or it could arise again in the future independently. So it would seem to me that if in fact this is really a part of the road system for emergency only, that these guys --

MR. LOGUE: It should be part of the responsibility.

MR. BLASS: -- should be obligated to keep it open, and there has to be some remedy built into the arrangement in case they don't.

MR. RICCIARDONE: Darren, this is lot

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MR. HINES: That's a separate lot line.

MR. SCALZO: That's combined new lot 1,
combined new lot 2.

MR. RICCIARDONE: Which is combining
this lot --

MR. SCALZO: No, no. Pacino's lot
remains as it is.

MR. BLASS: There's only lots 1 and 2?

MR. SCALZO: That's correct.

MR. HINES: They were more part of the
original subdivision, this lot.

MR. SCALZO: It used to be five.

MR. HINES: There's three lots using
this, whatever this thing is.

MR. BRAND: Can I ask, does the
topography here where the road comes in off this
one, is there a reason why we don't just go
straight through as opposed to going through
Pacino and having to get that right-of-way?

MR. RICCIARDONE: Because Pacino needs
the --

MR. SCALZO: Pacino needs to cross
through lot 1 already.

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MR. BRAND: These guys now have to go through -- if it just went straight through they wouldn't need to get anything from this guy.

MR. RICCIARDONE: They would have to build another road. They're trying to keep the same road that's there. We don't know what this topo is.

MR. BRAND: It looks a little steep there.

MR. RICCIARDONE: Coming straight through that lot. That's why they tied the two driveways, the existing roadway with the Pacino driveway hooking onto that. You're right, that's tight. That topo is real tight. That's probably why they looped around it originally.

MR. SCALZO: The original. When I arrived in 2004 for this project, the driveway is where it was.

MR. BRAND: Right.

MR. TRUNCALI: We talked about that at the last meeting, just having a cul-de-sac here and then you wouldn't need this whole thing. Fire trucks or trucks could turn around there.

MR. SCALZO: I understand completely,

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which is why my client had the fire chief up there to take a look at it.

MR. RICCIARDONE: If we had his letter. I don't.

MR. SCALZO: We don't.

MR. HINES: There's kind of a default cul-de-sac there because someone had a quarry going here.

MR. BRAND: Is that quarry part right here?

MR. SCALZO: That's where the proposed lot line change area is.

MR. RICCIARDONE: That's pretty flat.

MR. SCALZO: Yes.

MR. HINES: They don't want to back the fire trucks out from this house.

MR. BLASS: That's the benefit of this.

MR. HINES: They don't want to back out all the way. They want to be able to come out here and keep going.

MR. RICCIARDONE: The only thing I think is that everybody in that whole thing needs to have a maintenance agreement for --

MR. SCALZO: I agree with you.

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MR. RICCIARDONE: -- an emergency road or not.

MR. SCALZO: A well worded maintenance agreement could solve our problems. Code wise I don't know that I'm -- I don't have anything here that doesn't comply.

MR. BLASS: So here's the law. Under Section 134-18 of the subdivision regs, it reads as follows: "Driveways. Lots shall generally not have their vehicular access from a major street." So this entire section deals with lots that front on major streets and potentially may have driveways entering a major street. "Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined driveway in order to limit possible traffic hazards on such major street. Driveways serving individual lots shall have a minimum right-of-way of 25 feet in width and a travel way of at least 15 feet in width." So this appears to be the rule which gives the Planning Board the discretion and not the obligation to allow for a combined driveway in

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order to mitigate or lessen traffic impacts on a major street. So I think, as I said at the last meeting, it struck me that the first issue that arises is whether or not Plattekill Road is a major street or is not a major street, because if Plattekill Road is not a major street, it is conceivable that the entire section doesn't apply at all. If this entire section doesn't apply at all, what you're probably dealing with is the private road sections of the streets and sidewalks regulations.

MR. SCALZO: Plattekill Road is a County road.

MR. BLASS: Okay. So let's go to the definition of a major street.

MR. TRUNCALI: Where does it say in the code that you can't have more than two on a shared driveway?

MR. BLASS: It doesn't.

MR. RICCIARDONE: It doesn't.

MR. BLASS: You can't have more than two on a shared driveway? I don't know that there is a black and white rule to that effect. I'm just going from the rules that do exist as

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opposed to those that I don't see.

MR. TRUNCALI: I mean what's the difference if it's a major road or not if you can have more than two on a shared driveway?

MR. RICCIARDONE: What they're saying is if you took these and put an access road here and another access here --

MR. TRUNCALI: I know that.

MR. RICCIARDONE: That's what that paragraph is.

MR. BLASS: The implication to me, the implication of this rule that I just dealt with is that, generally speaking, you'd have one driveway per lot, --

MR. TRUNCALI: Right.

MR. BLASS: -- otherwise you wouldn't need this rule that would leave the discretion, you know, to have shared driveways up to --

MR. BRAND: What's the difference between the two dimensions that you gave, the driveway width versus -- I forget --

MR. HINES: Right-of-way, easement.

MR. TRUNCALI: The usable part.

MR. BLASS: 25 feet minimum

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right-of-way, traveled way of at least 15 feet.

MR. HINES: So within the 25 feet you have to have a 15 foot wide driveway.

MR. BRAND: Got you.

MR. SCALZO: Which means I'm going to need -- I have a center line calling for a 25 footer. I'll go to 12 1/2 each side.

MR. HINES: We're not at whether we're a major street or not.

MR. BLASS: The definition of major street is --

MR. LOGUE: I would think a County road would be a major street.

MR. BLASS: There's no definition of major street in the subdivision regs, so I'm going over to the highway specs, streets and sidewalks. Chapter 130 has a definition of major road. "A road which serves or is designed to be used primarily as a route for traffic between communities or large areas." Connecting communities or large areas.

MR. RICCIARDONE: Mm'hm'.

MR. BLASS: So you're happy with the concept this could be a major street because it's

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a County road?

MR. LOGUE: There's no doubt.

MR. BLASS: It's the type of County road that serves that function?

MR. LOGUE: Absolutely.

MR. BLASS: Okay. So let's assume you have the discretion under this section, C 134-18, to consider whether or not to have a shared driveway. You have that discretion. It's a matter of discretion to have a common driveway. The dimensions are as we discussed.

MR. BRAND: Do we know the dimensions here by this culvert and the two ponds? It seemed pretty tight when I drove through there.

MR. HINES: How ever wide my Suburban is.

MR. BRAND: How wide?

MR. HINES: I don't know. That's all that fit.

MR. SCALZO: The actual travel portion needs to be 15 feet?

MR. HINES: Yes.

MR. SCALZO: Okay.

MR. RICCIARDONE: Total 25, 15 --

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MR. SCALZO: It is not right now.

MR. HINES: It's that side.

MR. TRAPANI: How many lots can use that private road?

MR. RICCIARDONE: This is not a private road.

MR. HINES: It's a shared driveway.

MR. TRAPANI: The shared driveway?

MR. BLASS: I don't see any rule that says no more than X lots on a shared driveway. I don't see any.

MR. RICCIARDONE: I don't ever remember one.

MR. BLASS: I don't see any provision that deals with it directly at all.

MR. TRAPANI: If it's only as wide as Pat's car --

MR. RICCIARDONE: It's not going to be. They have to widen it.

MR. SCALZO: That would be a condition of our approval here, would be to improve it to 15 feet wide with a right-of-way width of 25.

MR. FALKENBERG: And that's all the way around.

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MR. BLASS: You're probably going to want to show that.

MR. SCALZO: Yes. I would say yes.

MR. BLASS: You probably want to amend the plan to show that and to give a picture as to whether you have the property rights. I'm assuming there's no problem getting property rights because everyone is related and connected.

MR. SCALZO: Yes.

MR. RICCIARDONE: The only problem I see right now is doing a maintenance agreement. I don't see how they're going to get away without getting it to keep that open.

MR. TRUNCALI: I would much rather see a cul-de-sac or turnaround there so that it eliminates that whole --

MR. RICCIARDONE: I thought originally that's where we were going.

MR. TRUNCALI: If it's flat and the material is there.

MR. HINES: It's there. I don't know if you've been there but there's a big large rock area there, graded off.

MR. BLASS: You wouldn't need this.

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MR. BRAND: I think a fence might solve some of your problems. Some kind a fence or gate that certain personnel have a key to.

MR. HINES: If you put the cul-de-sac in you might not need that. You won't have --

MR. SCALZO: You keep mentioning a cul-de-sac. What about a reserved area, because it is shale? You've been up there, you've seen it. Just that area is maintained in it's current condition. It's not growing anything. There's too many rocks.

MR. HINES: It's definitely not growing anything.

MR. TRUNCALI: Why can't you just show it as a right-a-way cul-de-sac?

MR. HINES: Turnaround.

MR. SCALZO: I can call it a turnaround. There may be issues regarding whose lot -- I need to figure out whose lot that would be attributed to.

MR. TRUNCALI: If it's a right-a-way, why can't it --

MR. HINES: It's pretty close to where those driveways are, just from being there.

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MR. RICCIARDONE: Darren, who owns the cul-de-sac? Lot 1? Lot 2?

MR. SCALZO: Or in that case all three.

MR. HINES: It may be all three, looking back.

MR. FALKENBERG: Who is going to plow it all?

MR. RICCIARDONE: They have maintenance agreements. The question is, okay, you do a cul-de-sac right here, now you've got this cul-de-sac that still has to be in the maintenance agreement because it goes over each lot, and you still have to have a maintenance agreement to come down here.

MR. TRUNCALI: Whoever owns it owns it and the people have a right-of-way over it.

MR. BLASS: Cross easements.

MR. HINES: And cross maintenance agreements.

MR. RICCIARDONE: I think we came around to the same boat, whether they put a cul-de-sac or leave it the way it is, they still need maintenance agreements.

MR. SCALZO: That I understood.

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MR. TRUNCALI: Of course this guy here doesn't need to have anything to do with that over there.

MR. SCALZO: He doesn't, however he's crossing over the lot.

MR. TRUNCALI: He needs that but he doesn't need anything here.

MR. SCALZO: It was actually -- if you notice number 14 up there, that's why I stopped the driveway description of a shared driveway there, because Pacino has no -- well, he has no right in this case to get beyond that common line between lots 1 and 2.

MR. RICCIARDONE: He comes out of his driveway right now, he's got to make a left.

MR. SCALZO: That's correct.

MR. RICCIARDONE: He can't make a right because he has no right to get over both roads.

MR. BRAND: He can make a right for 25, feet or whatever it is.

MR. HINES: I wouldn't suggest you write it that way, that one guy can drive 25 feet --

MR. RICCIARDONE: I'm not suggesting

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that. I'm suggesting a maintenance agreement to cover everybody.

MR. HINES: They're all going to share a third of the cost or something. That's always the issue of a private road or driveway, the guy who lives first only wants to plow the first part of the road and doesn't care about the guys in the back.

MR. TRUNCALI: That takes this guy out of the mold.

MR. HINES: He needs a couple hundred feet in front to get there.

MR. BLASS: The other thing you have to be aware of is that the participants to the maintenance agreement, the participants to the transaction, anyone who has to give an interest in land that affects his or her property is going to have to have clear title, meaning no mortgages getting in the way, and no judgments, and no liens. If there's any of that stuff that pops up that makes the Town subordinate, they're going to have to be subordinated or released. Mortgages are going to have to be modified to subordinate them to this arrangement. So they have to get

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banks involved. It's a little complicated.

MR. SCALZO: I understand. If I can just back up a little bit. You're very familiar with fire apparatus. If I were to just -- the one-and-a-half story dwelling that's currently on the new 5 acre lot, if you were to have to respond to that with fire apparatus and pull into his driveway, how are you getting out? I have locked the cul-de-sac up here.

MR. RICCIARDONE: That's an existing condition right now. Now you're changing it.

MR. SCALZO: I'm changing that by this action, by this lot line consolidation and lot line change.

MR. RICCIARDONE: How big is this parking lot?

MR. SCALZO: It's not very big.

MR. BRAND: It's tiny.

MR. LOGUE: You're backing out --

MR. SCALZO: You're backing out, which is what we're trying to avoid here. If I create that cul-de-sac, then I haven't solved the entire problem.

MR. TRUNCALI: I don't think anybody is

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going to plow this thing all winter long.

MR. SCALZO: You could be right. With a well worded maintenance agreement --

MR. HINES: They are going to plow the snow up to it.

MR. BLASS: If we're building in what appears to be an incentive not to plow because it doesn't benefit me, which may be what's happening here, the only solution to that is to give the Town the right to plow it and slap a lien on the property for the cost of the plowing.

MR. SCALZO: Okay.

MR. BLASS: Which raises the interesting question of whether the Town would want to get involved in something like that.

MR. LOGUE: I would doubt that.

MR. BLASS: It has the appearance of having an incentive not to do something because it doesn't benefit me is what the theme is.

MR. BRAND: That's definitely true for the Pacino guy with your turnaround cul-de-sac. He has no real interest in that part of it. I wouldn't agree to that maintenance agreement.

MR. RICCIARDONE: He's not even going

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to be involved in the cul-de-sac.

MR. HINES: He is.

MR. SCALZO: He's benefiting from other -- all the distances that are calculated from the center line of the shared drive 1 through 6. He needs it to happen. I don't know -- I understand what you're saying, he's got the shortest -- he's the first guy served.

MR. LOGUE: He's still responsible for this piece up here.

MR. HINES: They're going to be responsible for all of it. It's going to be a third, third, third.

MR. SCALZO: With this one it should be 25 percent each, that way the maintenance agreement can go for the entire horseshoe.

MR. HINES: If you can accomplish that I think it works.

MR. SCALZO: The sticky wicked here is the reputed owner of Weiss, they actually have a one-story framed dwelling. They're serviced by the driveway that's over here as well.

MR. FALKENBERG: So that's five.

MR. SCALZO: They're not part of this

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action. Actually they would get it for free, if you will.

MR. RICCIARDONE: They have a driveway.

MR. SCALZO: This is serviced by this driveway. They have the easement. It's a right-of his-way in favor of Weiss right here.

MR. HINES: This Wenz lot wasn't part of a subdivision. They're only doing a lot line change.

MR. SCALZO: If it's improved to 15 feet wide they should be happier.

MR. RICCIARDONE: I don't think we're really solving anything at this point until you look at how you can come up with a maintenance agreement.

MR. LOGUE: You have some issues to address here.

MR. RICCIARDONE: I don't know how we can direct you to go anywhere without getting these -- this whole thing into some sort of a maintenance agreement.

MR. BRAND: The culverts that are here for the ponds, does that need to be looked at, too, with the additional traffic going over them?

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MR. HINES: It's going to have to be 15 feet wide, which it's not now.

MR. BRAND: I mean the physical piping or anything.

MR. SCALZO: I'm pretty sure they have adequate cover.

MR. HINES: I bet there's six feet over them.

MR. SCALZO: Typically if you have more than one foot of cover --

MR. HINES: There's definitely one foot of cover on those pipes.

MR. BRAND: Just asking.

MR. SCALZO: I think I understand or hear what you're saying. It turns into more of a legal obligation to define what the rights are for the shared driveway.

MR. RICCIARDONE: It's all well and good now that they're all family and everything is hunky dory. Later on in the future when those two lots get sold and years down the road, without a maintenance agreement forever, it's going to become really sticky.

MR. SCALZO: I agree with you. I don't

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-- as I say, a well worded agreement will go a long way.

What I would like before I'm leaving is I don't believe that the maintenance agreement would prevent me from having a public hearing on this. So I would like, you know, at least an entertainment that we can, in the month of July at least, open this up for public comment, and in the interim my client's attorney will work on the maintenance agreement.

MR. RICCIARDONE: First things first. Do we think this is good enough for sketch? I mean to --

MR. FALKENBERG: It doesn't show the 15 feet; right?

MR. BRAND: It doesn't show your cul-de-sac that we talked about either.

MR. SCALZO: I don't know that we're there with a cul-de-sac.

MR. FALKENBERG: Whatever way you go you have to show the upgrade to the roadway.

MR. SCALZO: That can be handled with a note.

MR. HINES: I'd almost like to get a

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public hearing going to see if we're going to get any of these neighbors to come in screaming.

MR. RICCIARDONE: That's the catch 22. Do we say okay, let's give him sketch and move on to public hearing, find out what the public is looking for or if anybody has any objections to it. In the meantime he can work on a maintenance agreement. Does that sound logical?

MR. TRUNCALI: Does this guy with the right-of-way, does he have any say --

MR. SCALZO: As long as --

MR. TRUNCALI: -- legally?

MR. BLASS: He has an easement.

MR. SCALZO: We're not taking that away.

MR. FALKENBERG: Can we get a copy of that easement?

MR. TRUNCALI: Does he have anything to say about what goes on with the road here?

MR. BLASS: He doesn't own the road. So long as it doesn't interfere with his ingress or egress or overburden it in some way. It shouldn't interfere with his easement rights. I say that but somebody said we should get the

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easement.

MR. SCALZO: I have that in my files. I don't have it here with me. I will certainly produce it for you.

MR. FALKENBERG: Just so we know exactly what has been agreed to in the past and where it sits right now.

MR. SCALZO: I will produce that. It's very generic, just with right of ingress and egress.

MR. BLASS: Is it possible to consider sketch subject to a condition that within a certain period of time the plat be modified in advance of a public hearing to show the minimum 25 foot right-of-way and minimum 15 foot travel way?

MR. SCALZO: I can have those revisions and have it back in by Friday. That's not an issue. Both of the issues that you just discussed can be taken care of in the general consolidation notes. I don't know that I need to show --

MR. BLASS: What's the width of the driveway as shown on the plan?

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MR. SCALZO: Probably 10 to 12 feet.

It varies.

MR. BLASS: Less than 25.

MR. SCALZO: That's the right-of-way.

The actual improved portion that you drive on needs to be 15 and the right-of-way width needs to be 25. So I can go 12 1/2 off the center that I had described and put a requirement of subdivision or the consolidation that the existing road be improved to 15 feet wide.

MR. HINES: With a detail I would think.

MR. BLASS: So the note will say that what's shown on the plan -- it will not be as shown on the plan

MR. HINES: Existing driveway will be upgraded to.

MR. SCALZO: I'll call it proposed. It needs to be a proposed improvement.

MR. RICCIARDONE: At this point I think we can still say okay to sketch plan for a public hearing and then he can put together his stuff. After the public hearing, if he doesn't have some sort of a maintenance agreement and the

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upgrade, --

MR. HINES: You can leave it open. You can make it a condition.

MR. RICCIARDONE: -- you don't go any further.

MR. SCALZO: I understand that.

MR. BLASS: It's probably one of those situations where the Board is going to want to have the maintenance agreement in advance of giving final approval as opposed to making it a condition of final approval because they'll be flying blind.

MR. SCALZO: I will have my client's attorney work directly with your office if that's okay with you.

MR. BLASS: Sometimes we do conditional approvals subject to a suitable maintenance agreement. I think in this situation the maintenance agreement should be done in advance of approval.

MR. SCALZO: I don't disagree.

MR. BLASS: Okay.

MR. BRAND: Ron, can I ask a question? With lots 1 and 2, when you said the maintenance

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agreement had to be mortgage free, will that affect people buying the lots?

MR. HINES: No. Once it's recorded --

MR. BLASS: You want to have the maintenance agreement have priority over any mortgages or judgments or liens. In the event that there was a foreclosure by a bank, hypothetically, of lot 1, which could happen sometime in the future, the mortgage, if it was the first interest in the chain of title, the primary interest, which it always is, would be -- the foreclosure on the mortgage by law would extinguish all subordinate property interests. If we're talking about a recorded common driveway maintenance agreement that is subordinate in the chain of title in the clerk's office to a mortgage, if the mortgage is foreclosed, the agreement will get wiped out. So we don't want that to happen. That's why you want to have the agreement with the consent of a bank, which you'll have to get, be primary to the mortgage. You subordinate the mortgage to the agreement with the bank's consent.

MR. BRAND: Okay.

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MR. BLASS: So this is important enough, especially here with this lot and the function of emergency access, to really sort of pay attention to that.

MR. HINES: And the other house lot, too.

MR. BLASS: Down here as well. This as well. These guys are not even -- this parcel is not a part of the prior subdivision. It's being sucked into the modification.

MR. RICCIARDONE: To the road.

MR. HINES: And the lot line.

MR. BLASS: This was a part of the prior subdivision?

MR. HINES: Yes, it was.

MR. BLASS: So you really want to make sure the lots have already been sold that already have owners, that already have houses do not suffer mortgage foreclosures that wipe this out and wipe this out. That's the exercise. So we should probably run -- probably ask the attorney for the applicant to run a title report to show if there's any mortgages or liens or judgments that need to be subordinate.

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MR. SCALZO: Okay. If I may just back up.

MR. HINES: Or you can build a private road and get five lots.

MR. SCALZO: If the economy was different we would.

MR. HINES: You have approval for that.

MR. SCALZO: I know. Let me just go back to the access. Am I looking at a designated cul-de-sac, having noted that if emergency vehicles were to come up this driveway and service this house or this framed barn, they have to back down?

MR. HINES: I don't care if they back down. You have to look at it as a whole. I think if you can get the right-of-way through a maintenance agreement --

MR. SCALZO: At 15 feet.

MR. HINES: -- and a letter from the fire chief that they're okay with this, I think that goes a long way.

MR. SCALZO: So I'm clear, it's remaining as it is being improved to proposed improved 15 feet wide with 25 foot access?

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MR. RICCIARDONE: And the fire chief says okay.

MR. SCALZO: And the fire chief says okay.

MR. BRAND: Does he need some type of turnaround up there?

MR. RICCIARDONE: He doesn't need it.

MR. SCALZO: I don't need it.

MR. RICCIARDONE: Okay.

MR. HINES: There's kind of one there by default.

MR. RICCIARDONE: Okay. Moving forward, any other questions?

MR. SCALZO: I have nothing.

MR. RICCIARDONE: Okay. We can make approval first for sketch. Do I have a motion?

MR. LOGUE: I'll make a motion for sketch approval.

MR. RICCIARDONE: One.

MR. TRUNCALI: I'll second it.

MR. RICCIARDONE: Two. All in favor?

MR. BRAND: Aye.

MR. TRAPANI: Aye.

MR. LOGUE: Aye.

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MR. TRUNCALI: Aye.

MR. FALKENBERG: Aye.

MR. RICCIARDONE: Aye.

Sketch is approved.

And now we'll make a motion for --
we'll set a date for a public hearing. Might as
well do that; right?

MR. HINES: Yes.

MR. RICCIARDONE: Okay. And are we
looking still at July 7th? We'll have new maps?
Is July 7th good with everyone?

MR. TRUNCALI: I'll make a motion for a
public hearing July 7th.

MR. FALKENBERG: I'll second it.

MR. RICCIARDONE: Okay.

MR. SCALZO: Thank you.

(Time noted: 8:40 p.m.)

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

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

DATED: July 3, 2014