

APPENDIX B

Public Hearing Transcripts

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

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In the Matter of

THE MARKET PLACE
(2005-39)

Route 300

Section 60; Block 3; Lots 49.22,49.1,41.3,48,41.4 & 49.21

Section 71; Block 4; Lots 7,8,9,10,11,12 & 13

Section 71; Block 5; Lots 9,15 & 16

Section 97; Block 1; Lot 20.3

IB Zone

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PUBLIC HEARING

Date: June 1, 2006
Time: 7:05 p.m.
Place: Meadow Hill School
124 Meadow Hill Road
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI
J. LEO GLYNN

ALSO PRESENT: NORMA A. JACOBSEN
MICHAEL H. DONNELLY, ESQ.
EDWIN GARLING
PATRICK HINES
KAREN ARENT
KEN WERSTED
THOMAS BAIRD

APPLICANT'S REPRESENTATIVE: ROBERT WILDER

----- X

24 MICHELLE L. CONERO
72 River Glen Road
Walkill, New York 12589

25 (845)895-3018

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. It's just a little bit after 7:00. If we can, we'll begin with the meeting. Thank you.

I'd like to welcome everyone to the Town of Newburgh Planning Board meeting of June 1st.

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

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. O'DONNELL: Present.

MR. PROFACI: Here.

MR. GLYNN: Present.

CHAIRMAN EWASUTYN: And myself present.

The Town of Newburgh Planning Board is represented by a group of consultants that make recommendations to the Planning Board. At this time I'll ask that they introduce themselves.

MR. BAIRD: Thomas Baird, Creighton,

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Manning Engineering, Noise Consultant.

MR. WERSTED: Ken Wersted, Creighton,
Manning Engineering, Traffic Consultant.

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

MR. GARLING: Ed Garling, Land Planner.

UNIDENTIFIED SPEAKER: We can't hear
you.

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

MR. GARLING: Ed Garling, Land Planner.
Also on my left is Pat Hines, the Engineer, and
Mike Donnelly, the Attorney.

CHAIRMAN EWASUTYN: At this time I
would like to give the meeting over to Leo Glynn.
Leo.

MR. GLYNN: Ladies and gentlemen, the
Board invites you to stand for the Pledge of
Allegiance to our flag.
(Pledge of Allegiance.)

MR. GLYNN: Thank you very much. Would
you please turn off any electronic communication
devices. Thank you.

CHAIRMAN EWASUTYN: We have just one

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item scheduled this evening and that's for The Market Place. It's a public hearing for the site plan and the Draft Environmental Impact Statement. It's located in an IB zone and it's being represented by Robert Wilder.

I'll ask Mr. Mennerich to read the notice.

MR. MENNERICH: "Town of Newburgh Planning Board notice of change of meeting location, notice of public hearing for June 1, 2006, notice of site plan and SEQRA D.E.I.S. public hearing. Notice is hereby given that the Planning Board of the Town of Newburgh, New York has changed the location of its meeting scheduled for June 1, 2006 to the auditorium of the Meadow Hill School, Meadow Hill Road, Newburgh, New York at 7:00 p.m. Notice is further given that on the aforementioned time, date and place the Planning Board will hold a public hearing pursuant to Section 185-57 K of the Zoning Law of the Town of Newburgh, Section 274 A of the Town Law of the State of New York, and Section 617.9 (a)(4) of the SEQRA regulations 6 NYCRR upon the application of Wilder, Balter Partners for the

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approval of a site plan as described below. The public hearing will address both the site plan proposal as well as the Draft Environmental Impact Statement, D.E.I.S., on file with the Town. The D.E.I.S. is available for public examination at the Town Hall. The D.E.I.S. is also posted on the Internet at [http://www.TIMMILLERASSOCIATES.com./public review/Market Place/index.html](http://www.TIMMILLERASSOCIATES.com./public%20review/Market%20Place/index.html). All persons interested will be heard by the Planning Board at the public hearing to be held as aforesaid. The Town of Newburgh will make every effort to ensure that the hearing is accessible for persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the town clerk. Name of project: The Market Place. Description of action: The applicant proposes to construct -- proposes the construction of a commercial shopping center consisting of approximately 850,000 square feet on 127.6 acres of vacant land within the Interchange Business, IB, zoning district opposite and east of the Newburgh Mall. The site extends to Route 52 to the east along I-84 and to

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2 Route 52 at Meadow Road to the north. The
3 project is proposed to be serviced by municipal
4 sewer and water. The project is located on Route
5 300 in the Town of Newburgh, designated on Town
6 tax maps as Section 60; Block 3; Lots 41.3, 41.4,
7 48, 49.1 and 49.22, Section 71; Block 4; Lots 8,
8 9, 10, 11, 12, 13 and 14, Section 71; Block 5;
9 Lots 9, 15 and 16, and Section 97; Block 1; Lots
10 13.3 and 20.3. Project location: Route 300 and
11 I-84 to New York State Route 52 at I-84, Town of
12 Newburgh, County of Orange. The Planning Board
13 will accept comments from all interested members
14 of the public concerning both the proposed site
15 plan and the Draft Environmental Impact
16 Statement. The public hearing may be closed or
17 continued at the Planning Board's discretion.
18 Written comments regarding the D.E.I.S. will be
19 received until the latter of July 5, 2006 or
20 thirty days after the close of the public
21 hearing. Dated May 4, 2006. Newburgh, New York.
22 By order of the Planning Board of the Town of
23 Newburgh, New York by John P. Ewasutyn, Chairman.
24 CHAIRMAN EWASUTYN: Ms. Jacobsen,
25 please.

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MS. JACOBSEN: The notice of hearing was published in The Sentinel on May 12, 2006, in The Mid-Hudson Times on May 17, 2006. The applicant's representative sent out 110 registered letters. 90 receipts were returned and 1 notice was undeliverable.

Because the post office did not stamp each of the white receipts of the mailing, the applicant has provided us with an affidavit of mailing certified on June 1, 2006.

The publications and mailings are all in order. Thank you, Mr. Ewasutyn.

CHAIRMAN EWASUTYN: Before I turn the meeting over to Mr. Wilder and his team to give a presentation, I'll ask Mike Donnelly, our Attorney, to walk you through the purpose of tonight's public comment period for the D.E.I.S. and site plan, and also to remind everyone that in the back of the room there's a table for signing in for those who wish to speak tonight. We'll go through that list and acknowledge everyone. We have a Stenographer here that will be recording the minutes of the meeting and we ask that you speak clearly and slowly. There's a

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microphone up here so we can have that for the records.

Mike.

MR. DONNELLY: Good evening, everyone. My name is Mike Donnelly. I thought before we begin it would be helpful for you if I outline a little bit about what this evening's procedure is to be as well as to give you some ground rules as to how the Board will proceed this evening.

As you've been told in the reading of the hearing notice, tonight's hearing is concerned with both the site plan as well as the content of the Draft Environmental Impact Statement that I'm sure some of you have had a chance to see.

The site plan before the Board is the specific proposal of the applicant to build this project. It shows the location of buildings, entranceways, drainage facilities and all of the infrastructure that makes up the project proposal. The hearing tonight is designed to hear your comments on these specifics, and the Board invites any comments or suggestions that you may have regarding this project, its layout

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and its design.

Tonight's hearing, as I mentioned, is also designed to elicit your comments regarding the potential environmental impacts of the project. This aspect of the hearing is held under authority of New York Department of Environmental Conservation's statutes, what is commonly known as SEQRA or the State Environmental Quality Review Act. The purpose in this aspect of the hearing is to receive public comment on an environmental study called a Draft Environmental Impact Statement. The Draft Environmental Impact Statement has been a document that has been before the Board in various forms for a period of months and has recently been received and accepted for the purpose of commencing public review. The receipt and the notice of completion that were published is a certification of sorts by the Board that that Draft Statement is in a form that is adequate to begin the process of public review into its content.

Based in part upon your comments this evening, the Draft Environmental Impact Statement

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2 will eventually be finalized in a document called
3 a Final Environmental Impact Statement. The
4 contents of that report when finalized will then
5 guide the Planning Board as it continues with the
6 review of this project and ultimately takes
7 action upon the application.

8 Tonight the Board wants to hear from
9 you concerning your review -- your views, I'm
10 sorry, concerning the potential environmental
11 impacts this project might cause. All of your
12 comments concerning such impacts are important to
13 the Board. Please be advised, however, that your
14 comments and questions will not be addressed or
15 answered tonight. All relevant comments and
16 questions will be considered and addressed in the
17 Final Environmental Impact Statement.

18 Additionally and importantly, and it
19 was mentioned once before but it bears mention
20 again, written public comment will also be
21 received. Even if you speak this evening, you
22 are also entitled to give the Board your written
23 public comment. The Board has fixed a forty-five
24 day period following the close of the public
25 hearing for the receipt of written comment.

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The Board wants your comments. This hearing is designed to receive them. The Board will listen to what you have to say carefully, however there needs to be order and dignity to the proceedings this evening.

In a moment the applicant's representatives will outline for you the project through a series of slides and presentations by their various professionals. It is not possible for the applicant in the time allotted to explain every detail and every nuance of the project, and certainly impossible to explain to you this evening all of the potential environmental impacts and how they had been addressed thus far in the Draft Environmental Impact Statement.

When that presentation is concluded we will turn to you for comment, and you will be asked in turn and in an orderly fashion to address the Board. Just as it is not possible for the applicant in its presentation to explain to you every nuance of the project, it is simply not possible, with this crowd for a project of this complexity, for this to be a question and answer session, therefore it is not possible to

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2 answer all of your questions. To the extent that
3 you raise questions, they will need to be, to the
4 extent found significant and worthy of further
5 examination by the Board, addressed in the Final
6 Environmental Impact Statement. It may be that a
7 quick question might be answerable, but in the
8 main we're here to hear your comments. If we
9 spent all night answering questions we would
10 never get the comments that you wish to address
11 to us.

12 The purpose of the hearing and the task
13 for the Board is to learn from you issues,
14 concerns that the Board itself or its various
15 consultants might not yet have recognized.
16 Therefore, in the main we ask you not to ask
17 questions but to address issues and bring your
18 concerns to the Board's attention.

19 You are a large crowd and I'm sure that
20 many of you wish to speak. In order to hear from
21 you in an orderly fashion I have been directed to
22 announce certain ground rules. First, everyone
23 wishing to speak must sign in. I know a good
24 number of you have done so already, and there was
25 a notice to that effect in the rear. That table

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2 remains open for you to sign in. Number two,
3 before making a comment you need to come forward
4 to the microphone in the center aisle, identify
5 yourself with your name and give us your address.
6 It is important to us in order that the
7 transcript be accurate that you spell your name
8 for the Stenographer. We would also ask you as
9 much as you can do so to speak slowly and clearly
10 so that the stenographic transcript can be
11 accurate. Three, the comment of each person is
12 limited to three minutes. If time permits you
13 can sign up on the list again and we will hear
14 from you a second time. Four, the time of each
15 person belongs to that person, it may not be
16 assigned or transferred to another person.
17 Finally, and I think importantly, the Board is
18 interested in issues but it is not interested in
19 the number of people who share the same view on
20 that issue. Therefore, please, if the issue has
21 already been raised or if the point has already
22 been made, do not raise or make the same point
23 again. The Board will deal with each issue
24 brought to its attention after the hearing is
25 closed as it formulates its decision on this

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project.

CHAIRMAN EWASUTYN: At this time I would like to turn the meeting over to Tim Miller who will give you a presentation on the project before us.

MR. MILLER: Good evening, everyone. My name is Tim Miller, I'm an Environmental Planner and I have been assisting Wilder, Balter Partners, the applicant for this project, The Market Place, in preparing the Environmental Impact Statement. My firm has been assisted by a number of other consultants. Divney, Tung, Schwalbe, Civil Engineers, have worked on grading and stormwater issues and other engineering matters. John Collins, a well-respected traffic engineering firm, has done all the traffic analysis for this project. There have been a host of other consultants and specialists assisting us with some of the various items that are in the Draft Environmental Impact Statement.

Before this document was accepted for public review we prepared a draft of the E.I.S. and submitted it to the Planning Board and its own expert advisors. As the Chairman indicated,

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2 the Planning Board has retained expert advisors
3 to assist in the review of this project. They
4 have already been introduced. There's a
5 professional planner, a landscape architect, a
6 consulting civil engineering firm, a consulting
7 traffic, air and noise engineer, and legal
8 counsel. After that group of people along with
9 the Planning Board reviewed the document, they
10 provided us with a fair sense of comments, asked
11 us to revise the D.E.I.S., and that effort all
12 took place in the last six months or so prior to
13 the Planning Board accepting the document as
14 complete sufficient for you to begin reviewing
15 this project.

16 Wilder, Balter Partners proposes to
17 construct an 850,000 square foot, open air retail
18 center on 127-acre site in the Town of Newburgh.

19 Do we have a location map, Steve?

20 The site is located -- this is I-84,
21 this is the Thruway, I-87. The site is located
22 here. It has frontage on Route 300. That is the
23 Newburgh Mall. It also has frontage on Route 52.
24 The site has been zoned IB. It has long been
25 planned for commercial use by the Town of

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2 Newburgh. In 1991 the adopted master plan
3 identified this area as a future town center with
4 high intensity uses. This is no doubt in
5 response to the infrastructure that the State and
6 Federal Government has made of the site's
7 excellent location with the crossroads of two
8 interstate highways and other transportation
9 infrastructure such as Route 300 and Route 52.
10 Also the site is served by public waters and
11 sewers. The economic elements of the 1991 master
12 plan actually went on to recommend that the Town
13 develop a strategy to market these retail areas
14 located on Route 300 and 52 and to provide
15 central water and sewer services to attract more
16 intense commercial uses in these corridors. In
17 essence this project is implementation of the
18 Town's long-term goals for this area.
19 The Town updated its comprehensive plan
20 in 2001, and the focus of that update was to
21 concentrate commercial uses in the crossroads
22 area including this site. The Orange County
23 comprehensive plan adopted in 2003 identified the
24 project area as being within an area of priority
25 growth.

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So in summary, this piece of property enjoys excellent location with respect to transportation infrastructure, it has central water and sewer available to it, it has the population growth in the area sufficient to accommodate and support retail operations.

Do you have the aerial photo? This is an aerial photo of five, ten and fifteen-mile radiuses. The site is located here at the crossroads and these circles are three, five, ten and fifteen miles. Anybody that looks at market studies evaluating feasibility of projects of this nature first looks at the population. Has the population grown sufficiently to support this type of use. What happens if it hasn't is people drive outside the area to go shopping. People shop. People shop every day. When an area grows sufficiently to support retail uses people look at demographics. In a fifteen-mile radius of the site we have about 400,000 people living here. People may be driving to Harriman, Woodbury, they may be driving to Middletown, they may be going across the river to Fishkill. This is an opportunity for people to shop closer to the

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1
2 fifteen-mile radius that this is primarily going
3 to support.

4 The zoning of this site has been in
5 place for more than twenty-five years. The
6 comprehensive plan has identified the site as
7 commercial, as priority growth. It's for all of
8 these reasons that the applicant purchased this
9 land and submitted this proposal to the Town of
10 Newburgh. This project complies fully with the
11 current zoning regulations of the Town.

12 I want to talk a little bit about the
13 project itself. This is a site plan of the
14 project site. Basically it's designed to
15 accommodate two shopping formats. About twenty
16 acres of the site in the frontage of the property
17 across from the Newburgh Mall and along Route 300
18 has been designed as what's termed to be a
19 lifestyle center. Lifestyle centers are becoming
20 kind of the new wave in outside retail projects.
21 They are pedestrian friendly, they are intended
22 to have a main street village theme. The types
23 of users in these lifestyle centers are typically
24 smaller than the larger format retailers. They
25 include clothing, specialty retailers,

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2 restaurants and entertainment. The lifestyle
3 center will be developed at about 200,000 square
4 feet of retail space, and the balance of the
5 site -- these brown areas are the buildings --
6 represents about 650,000 square feet and would
7 support larger national retail tenants. There
8 are three points of access into the property.
9 The primary access will be located from Route 300
10 across from the Newburgh Mall just a short
11 distance from the I-84 off ramps. Our traffic
12 engineers have projected that that access, that
13 primary access will serve about sixty percent of
14 the traffic entering and exiting The Market
15 Place. There's a secondary access that's
16 proposed -- I'm sorry. Wrong place. The
17 secondary access is proposed out to Route 52 just
18 north of the Route 52 off ramp of I-84. That
19 will be located across from Fifth Avenue about a
20 quarter mile north of exit 8. Significant
21 improvements are proposed for both of these
22 intersections. They'll both be signalized. This
23 second access that I just mentioned, by the way,
24 was not part of the original plans. Based on
25 input from the Town, the applicant went out and

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1
2 purchased substantial additional property in
3 order to implement this access. This access is
4 expected to support somewhere around
5 thirty percent of traffic entering and exiting
6 the site. With these two access locations
7 basically what we do is we link exits 7 and 8 in
8 a way that will allow almost all the traffic to
9 access this site without going back into the
10 roads located along Route 52 and along Route 300.
11 There is a third access point which is located at
12 this location. This is the intersection of Route
13 52 with Meadow Avenue, Powder Mill Road and Innis
14 Avenue. Again, major improvements to this
15 intersection are planned. This is an area also
16 that has historically been subject to flooding
17 and icing in the winter. With the improvements
18 that are being proposed by the applicant, those
19 matters will be remedied, the flooding problem
20 will be alleviated, the geometry of the
21 intersection will be improved, and that will take
22 place at no cost to the Town Board or the local
23 residents.
24 The Draft E.I.S. was developed based on
25 input from the Planning Board and its consultants

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in a public scoping meeting that was held in 2005. All the topics in the document are fairly standard and they run the gamut of physical, social and economic issues. The applicant's project team has also met on many occasions with local residents to get input as to issues of concern and take that into account in the development of the design and mitigation measures for this project. Many of those measures are now incorporated into the project plans.

I'd like to just make note of a number of those mitigation measures that are included in the plans. The project will involve a substantial amount of grading of the site, about eighty acres, and there is a detailed erosion control and monitoring program that will be implemented and in place to address site disturbance issues. The grading plans they developed, there's been cuts and fills on the property. We will not have to bring in soil, we will not have to remove soil. There will be blasting necessary to remove materials on the site. A detailed blasting protocol has been established. It's expected to mitigate potential

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2 impacts of blasting including potential impacts
3 to local homeowners' wells which we know is an
4 issue for a lot of people living in the area.
5 There's a wetland mitigation measure
6 proposed. We need to fill in wetlands in order
7 to gain access to the property. The wetlands
8 mitigation plan is intended to offset the fill of
9 wetlands on a one-to-one basis.
10 There's a stormwater management plan
11 that is being implemented. That will reduce
12 rates of runoff from the site to no greater than
13 that which occurs under current conditions of the
14 property. There are also basins that are
15 intended to treat water quality. Basins are
16 located here and here. That plan has been
17 developed to be consistent with New York State
18 DEC standards and Town of Newburgh codes.
19 About 52 acres of the property will be
20 held in open space. That includes a stormwater
21 basin mitigation area, et cetera.
22 There's a very detailed landscape plan
23 for the property that addresses plantings in the
24 buffer areas and in the parking lots.
25 We've done detailed noise analysis.

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2 Noise is regulated by the Town of Newburgh code
3 as well. That will be mitigated by shielding the
4 HVAC equipment and with noise attenuation
5 barriers. There's an eight-foot high wood fence
6 that will provide noise attenuation at the back-
7 yards of residents on Hilltop Drive along with
8 evergreen and deciduous plantings. It also
9 provides security and privacy. Along the access
10 drive connected to Route 52 and Fifth Avenue
11 another fence will be placed to attenuate noise.

12 A lighting plan has been developed.
13 The lighting plan reduces light at the property
14 line to zero foot candles.

15 The Brookside Avenue cul-de-sac will be
16 reconstructed. Landscaping will be provided at
17 that location to block views of the easterly
18 drive.

19 At the request of the people in the
20 neighborhood, no pedestrian connections are being
21 provided between residential neighborhoods and
22 the shopping center for security reasons.

23 As I indicated earlier, eighty-five to
24 ninety percent of project-generated traffic is
25 expected to use the Fifth Avenue or the Newburgh

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2 Mall entrances to The Market Place site. Each of
3 the three access roads will be signalized. The
4 roadway geometry will be improved with widening,
5 striping, turning lanes, stacking lanes and
6 drainage improvements. All these improvements
7 will need to also be reviewed and signed off by
8 the New York State Department of Transportation.

9 There was an extensive air quality and
10 noise analysis done in the E.I.S. The project
11 has been determined not to cause exceedance of
12 air quality for carbon monoxide.

13 It will not exceed the Town of Newburgh
14 noise standards.

15 Standard dust control measures will be
16 implemented during construction, and as I
17 indicated there's a number of noise attenuating
18 measures included in the project plans.

19 This project will have a number of
20 significant fiscal benefits. It's estimated to
21 generate about \$2,700,000 in local property
22 taxes, the large majority of which will go to the
23 school district; \$38,000,000 annually in sales
24 taxes, that's every year, of which
25 \$17,500,000 goes from the State back to Orange

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2 County and then is disbursed for County projects
3 and Town projects.

4 The project is also estimated to employ
5 some 6,800 people in a variety of job categories.

6 The Draft E.I.S, and the Planning Board
7 did ask us in the Draft E.I.S. to examine a
8 number of alternatives, one of which is the
9 no-action alternative which is leaving the site
10 vacant. Another one is an access road
11 realignment alternative. Right now the access
12 road comes up and across, and this access road
13 alternative would require permission from the New
14 York State DOT to relocate this access road out
15 to Route 52 in an area that's within the DOT
16 lands and closer to Interstate 84. We are
17 pursuing that vigorously and we do expect to have
18 a positive result on that.

19 We've also put together a buffer
20 alternative that increases the width of the
21 buffer along The Market Place's northerly
22 property line, and that would have more expansive
23 distances, more landscaping and vegetation and
24 have a positive visual impact. We expect we'll
25 be pursuing that buffer alternative vigorously as

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well.

That concludes my presentation, Mr. Chairman. We'd love to hear yours and the public's comments. Thank you.

CHAIRMAN EWASUTYN: At this point in the meeting I'll turn the meeting over to Joe Profaci. Joe Profaci will call those who have signed in.

MR. PROFACI: The first speaker is John Parker.

MR. PARKER: Mr. Ewasutyn, Members of the Board -- is this clear? How is that?

CHAIRMAN EWASUTYN: Great.

MR. PARKER: Thank you, sir. Mr. Ewasutyn, Members of the Board, thank you for the opportunity to speak. My name is John Parker, I am counsel to a number of local residents known around these parts as Save Open Space. We are neighbors on Wintergreen Street whose lives would be severely impacted by this project.

Months and months ago they came to me and asked how we can help protect their homes in light of The Market Place in Newburgh project. They said to me John, we came here because we

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2 love Newburgh and we fear the character of our
3 community is being lost. Some of them have lived
4 here for thirty years plus. What I said to them
5 is look, we're going to do the best we can. The
6 laws of New York will allow them to be active
7 participants in the review process. We'll do
8 everything we can to help protect their rights.

9 As you know, D.E.I.S. review is a very
10 serious thing because the community impacts that
11 will be caused by this project, they're real and
12 they're irreversible. By any measure, a massive
13 project, 850,000 square foot of retail space over
14 a hundred acres of Newburgh, will be essentially
15 obliterated, demolished, destroyed, re-leveled.
16 I could go on. Traffic will change dramatically,
17 more congestion, more pollution. Also and
18 importantly, a number of the folks that have come
19 to me have serious concerns about their drinking
20 water supply for their wells and what it means
21 for their lives every day.

22 My concerns to this point are about the
23 process of these proceedings. To be fair we feel
24 that the way it's been handled has been
25 unresponsive government and an uncooperative

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2 applicant. On March 12th we asked the Town
3 Board, and members were copied of this Board, to
4 have some procedural safeguards to try to protect
5 the drinking water supply of the next door
6 neighbors that I represent. It's a serious
7 issue. It's their shower, it's their water.
8 There was no reply to that letter. April 19th we
9 asked that we have at least ninety days to
10 comment here. It's a 2,000 page document. It's
11 serious. This is technical stuff. A sixty-day
12 lead time for a hearing. We had no reply to
13 that. On May 4th we find out a hearing is June
14 1st. It's not even thirty days to take a document
15 that's been accepted, to read through, review,
16 get experts, have them compile it and present it
17 to you. Now we find out I have three minutes to
18 talk to you. The consultant for the engineer had
19 fifteen minutes to sit and talk about the
20 project. That's five times what you're allowing
21 us to speak. Not fair.
22 Another important issue which I want to
23 bring out is site access. Everything that's been
24 said in these documents is take our word for it.
25 We have good qualified engineers, good folks who

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1
2 are able to somehow get some money together to
3 help us and we can't get them on the site to
4 independently assess what's there.

5 On March 2nd -- March 7th I asked the
6 applicant's attorneys if we could get on site.
7 We'll make arrangements. We'll be reasonable.
8 Tell us what works for you. They denied that. I
9 again asked last week, here's our experts. They
10 know them very well. Can we at least get them on
11 the site to ask some questions, wetlands,
12 whatever? They denied me again. No right of
13 access will be granted no matter who your
14 consultants may be. Not a friendly reply, an
15 uncooperative applicant. However, there's a
16 tenacity in the Newburgh residents that came to
17 me. They're not giving up because New York laws
18 exist to protect the communities they live in,
19 and their homes and habitats are part of that.

20 I'm going to take two seconds. I'm
21 trying to cut this down so bear with me please.
22 I think it's important to talk five quick points
23 about SEQRA. All right. Section 617.2(n)
24 requires systematic consideration of these
25 adverse environmental impacts. 617.9(a), you

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1
2 have to respond to and address the substantive
3 concerns. 617.9(a) again, the lead agency is
4 responsible for the adequacy and the accuracy of
5 these documents regardless of who prepares it.
6 617.11(d), this Board is required to certify that
7 adverse impacts have been avoided, minimized to
8 the maximum extent practicable and mitigated.

9 I want to raise an issue of the minimum
10 public comment period which is found at
11 617.9(a)(3). The minimum public comment period
12 is thirty days which I find a fascinating number
13 in light of the fact what we're having to operate
14 here under. I have a whole -- I have pages here
15 of sections of expert issues which I can't get
16 to. You'll hear some testimony on traffic,
17 blasting impacts, well impacts, ecological
18 impacts, hopefully if we can get to them at some
19 point this evening.

20 I want to bring up one important issue
21 because I think it illustrates what I'm trying to
22 say to you. Wetlands. There are wetlands on
23 that site. There's no question about that. I
24 was able to contract with a highly qualified,
25 well known environmental expert in this

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1
2 community, and you know what he said to me about
3 that. This is what he said, and I'm going to
4 quote, "I can give you no formal opinion about
5 the accuracy of the on-site delineation without
6 site access and the inspection of the subject
7 wetlands." Okay. We are at such a substantive
8 disadvantage it's staggering. All right. I'm
9 going to skip to the closing.

10 CHAIRMAN EWASUTYN: I'm going to ask
11 you to summarize.

12 MR. PARKER: I'm going to close right
13 now. As I mentioned to you earlier, on
14 April 19th our clients asked about the public
15 comment period. I want to again review that on
16 the record here today. We ask again that at
17 least the public hearing stay open until after
18 the July 4th hearing, a holiday for the hearing,
19 and the public comments stay open to at least
20 Labor Day to give us a chance to get some
21 information together. We will do our best to
22 submit written comments which we now understand
23 will be due by July 5th.

24 Whatever happens here with respect to
25 this application, the residents' lives will be

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1
2 forever impacted by the decision of this Board.
3 We ask that the spirit and intent and the words
4 of the State law and Local law be fairly applied
5 because in the end the Planning Board as the lead
6 agency in this case is legally accountable for
7 the accuracy of the D.E.I.S. and the mitigation
8 measures with the serious significant adverse
9 environmental impacts that have been identified
10 and that you will hear more about tonight. Thank
11 you.

12 MR. PROFACI: Katherine Beinkafner.

13 MS. BEINKAFNER: Good evening, Board,
14 Consultants and members of the public. My name
15 is Katherine Beinkafner, B-E-I-N-K-A-F-N-E-R.
16 I'm a consulting hydrogeologist. I reside at
17 1003 Route 44/55, Clintondale, New York.

18 I had been requested by the SOS group
19 to review all matters related to water, soils and
20 bedrock. Three minutes isn't very long to
21 disclose to you my observations relative to this
22 project, but I will attempt to get through them
23 very quickly.

24 First of all I'd like to talk about
25 groundwater and recharge. On page 346, on-site

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1
2 groundwater is not intended to be used. That's
3 stated in the D.E.I.S.

4 On page 343, bedrock wells are
5 installed into metamorphic gneisses and granitic
6 gneisses found locally. First of all, there are
7 no gneisses or granitic gneisses in this part of
8 the county that I'm aware of.

9 Elsewhere on another page, page 313,
10 the site is underlaying by normanskill formation
11 which is described as shale, artalyte and till
12 stone. That's true as far as I know but there is
13 certainly discrepancies. Apparently the D.E.I.S.
14 was not prepared carefully nor was anyone reading
15 various parts to make sure it all agreed.

16 On page 344 it says groundwater flow
17 direction on the site is not known but is
18 expected to flow -- generally flow towards the
19 east and north, towards the Quassaic Creek and
20 Winona Lake, and I would also add toward the
21 homes in the area using groundwater from the
22 wells, from the bedrock of those homes on Hilltop
23 Avenue directly northeast of the proposed
24 project.

25 Let me call your attention to this 440

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1
2 foot elevation hill right in the middle of the
3 project site. It's believed to be totally
4 bedrock, and this is an area that they want to
5 blast. So I've taken a map and I've colored in
6 all of the elevation above 380 feet. You can see
7 it covers the majority of the center of the site.
8 You can see that. I believe that this area is
9 actually the recharge area for the bedrock
10 aquifer that provides the water for the homes to
11 the north and east. In other words, rainfall and
12 snow melt on this property infiltrates the ground
13 and dribbles down the water table and then as the
14 people are using the water from their wells the
15 water moves to the north and the east. So
16 consequently through the area of about 380 feet,
17 thinking that the houses are probably on say
18 Hilltop Avenue about elevation 400 and maybe 20
19 feet down to the water table. They may be
20 deeper. The houses may be at a different
21 elevation. Just to give you an idea of how much
22 of this property is apparently the recharge area
23 for these wells.
24 Now, in the discussions of stormwater
25 management, page 348, stormwater volumes are

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1
2 expected to increase due to increases in
3 impervious surfaces. Well, that makes sense. If
4 you've got wood and some soil and leaves and
5 things there now and you're going to pave it over
6 and you're going to have buildings, you would not
7 expect there to be very much infiltration. You
8 would not expect much recharge to be going down
9 into the ground. You would expect lots more
10 runoff every time it rains and much less
11 infiltration, much less recharge of this aquifer.
12 I think over the long term, and I don't know how
13 long the long term is, it might be the short
14 term, by reducing the infiltration, by reducing
15 the recharge the water level in this aquifer
16 would drop and therefore you would get lower and
17 lower water levels, but it's impossible to know.
18 Someone would have to do a computer model and try
19 to estimate how long it would take or what would
20 happen, what level the water would be at. I
21 think that it's one thing that the applicant did
22 not look at, did not tell us, told us they
23 weren't going to do anything but blast away at
24 the bedrock. Indeed some of that bedrock may
25 actually be above or below the water table where

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1
2 they're going to blast away, and there's no
3 mention of that either. There is indication that
4 the water tends to seep out of the bedrock over
5 near Interstate 84 where there's this wetland D.
6 Wetland D is described as a wetland where
7 groundwater is actually discharging to the
8 surface. So it's got to be coming out of this
9 hill, this mound, and coming out of the surface
10 over there.

11 If the water table were to decline and
12 the wells were to go dry I think this project
13 would be responsible and would owe it to the
14 neighbors to hook them up to City water.

15 The second topic I'd like to talk about
16 is --

17 CHAIRMAN EWASUTYN: I'm going to ask
18 you to come to a close, to summarize.

19 MS. BEINKAFNER: Okay. The
20 relationship of blasting to the wells. The
21 discussion in the D.E.I.S. did mention the
22 possibility of change in quantity of water in the
23 wells or possibly some physical damage, rock cave
24 ins. He did not mention about the possibility of
25 contamination. It's my understanding that some

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2 blasting agents are toxic materials, things that
3 you would not want to sample in your drinking
4 water. So I think we need to know a lot more
5 about the blasting plans and what agents they're
6 going to use.

7 Also with respect to the promises given
8 in the D.E.I.S. about doing a pre-blasting survey
9 and guaranteeing that if there's a problem with a
10 well the project would deepen the well, or drill
11 another one, or put in filters, I think more than
12 the twenty wells that were mentioned within the
13 500-foot radius, I think all twenty-eight wells
14 that are mentioned in the D.E.I.S. should be
15 candidates for that pre-blasting survey, and they
16 should be looked at very carefully.

17 Also I think you need to have a formal
18 agreement, a legal agreement between the project
19 people and the citizens who have these bedrock
20 wells on their property that are their water
21 supplies. Promises in the D.E.I.S., I don't know
22 whether they would hold up in court or not.
23 SEQRA is broken. I see so many projects go
24 through where really important issues are ignored
25 and I'm just really concerned about not only the

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2 quantity of the water but the quality of the
3 water.

4 I'll be submitting written comments by
5 the July 5th deadline.

6 MR. PROFACI: Maggie Mayer.

7 MS. MAGGIE MAYER: My name is Maggie
8 Mayer, 10 Wintergreen Avenue, Town of Newburgh.
9 I am reading a prepared statement from James
10 Barber who couldn't be here. He's an ecological
11 consultant. He was the author of this Quassaic
12 Creek biodiversity that was done for the City of
13 Newburgh about the Quassaic Creek, and like I
14 said, he's an ecological consultant.

15 I will say one thing on my behalf is
16 that just because a property is zoned commercial
17 doesn't mean that just anything can be built on
18 it. I can't build whatever I want on my
19 property. That's all I have to say for myself
20 right now.

21 James Barber, ecological consultant, 5
22 Fish Creek Road, Saugerties, New York 12477.
23 Summary comments on Market Place Mall Draft
24 Environmental Impact Statement. The following is
25 a summary of more detailed comments reflecting my

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1
2 review and analysis of the terrestrial and
3 aquatic ecology, Section 3.3 of the D.E.I.S. for
4 The Market Place at Newburgh development site.

5 I'm an independent ecological
6 consultant with thirty years of experience as a
7 biologist in New York State and twenty years of
8 experience in the Hudson Highlands region. In
9 2003 and 4 I conducted a biodiversity study of
10 the Quassaic Creek corridor which included
11 Algonquin Park adjacent to the Market Place site.

12 In my opinion the developer has, number
13 one, failed to provide information sufficient to
14 determine whether or not expected rare and
15 protected species occur on the site.

16 Number two, evidence nonstandard,
17 inconsistent and incomplete on-site survey work.

18 Number three, presented faulty analysis
19 of on-site conditions and potential of the
20 occurrence of rare species.

21 Number four, repeatedly misrepresented
22 and misinterpreted data in order to present a
23 picture of The Market Place site as degraded,
24 isolated and generally poor in habitat value when
25 the evidence actually indicates that this is not

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so.

Major critical points. Poor environmental work. The D.E.I.S. presents no description of survey methods or details about survey dates and times, no rationale for these choices. Essential surveys such as breeding amphibian and breeding bird surveys are also missing. Important plant groups were not determined as species, for example, caribs, scerud, bikus, and cyprus agrimony. There is no basis for claims that two rare species that I found along Quassaic Creek south of The Market Place site, narrow leaf sedge and woodland agrimony, do not occur on The Market Place site. Apparently specimens were not collected, or if they were were not termed species. The agency of Sterling Forest Forge Estates required the developer to perform a second botanical survey to redress the inadequacies of the first survey which in my estimation was better than The Market Place plant survey.

Animals were also poorly documented with some groups identified only to genus, for example Warbler. In the animal species list

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2 there are twenty-eight species of Warblers in
3 eastern North America according to Petersons.
4 Identification to species is essential since
5 species nor genera have rarity or protected
6 status.

7 Rare species are inadequately
8 addressed. For example, Cooper's Hawk of special
9 concern is on the list of potentially occurring
10 animals but its rarity status is not
11 acknowledged. There is no analysis of the
12 potential impacts on Cooper's Hawk and there
13 appears to have been no search for Cooper's Hawk
14 nests on the site. The Wood Turtle and Eastern
15 Box Turtle probably occur on the site. A search
16 for potential turtle nesting areas should have
17 been performed.

18 Faulty, unsupported and negatively
19 biased ecological analysis. A, the D.E.I.S.
20 reverses the logical interpretation of Quassaic
21 Creek biodiversity study. The Market Place
22 D.E.I.S. states that the site has little or no
23 potential for the occurrence of rare species
24 because it is located in an urban developed
25 context. The Quassaic Creek corridor has a high

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2 biodiversity including two rare plants and a rare
3 animal for its historically disturbed ecosystem
4 in an urban setting. There's no supporting
5 evidence or analysis the D.E.I.S. asserts the
6 site does not support known threatened or
7 endangered species or State listed species of
8 concern. Eastern Box Turtle, a special concerned
9 species, has been observed along the site
10 boundary and on the site. Contrary to what the
11 D.E.I.S. says, the site is not biologically
12 isolated from neighboring undeveloped areas such
13 as Algonquin Park and Brookside Pond. Continuity
14 of waterways and stream corridors exist in
15 underpasses.

16 The D.E.I.S. states the development
17 won't affect known rare plant occurrences
18 downstream along the Quassaic Creek when it is
19 commonly known and repeatedly demonstrated that
20 impacts such as pollution, turbidity, et cetera
21 can be transported any distance downstream.

22 Wood Turtle of a special concern
23 forages in many types of habitat including
24 forests, not just fields as stated in the
25 D.E.I.S. to support the conclusion that there is

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1 43
2 poor foraging habitat for Wood Turtle.
3 Wetlands to be filled, 4.88 acres.
4 That's important. 4.88 acres of wetlands to be
5 filled could be important breeding sites for
6 amphibians including special concerned species
7 such as Blue Spotted Salamander and Jefferson
8 Salamander. This is not acknowledged in the
9 D.E.I.S. These isolated wooded wetlands are
10 commonly known as vernal pools and are critical
11 habitats for many animal species. The New York
12 State DEC has requested that the New York State
13 Legislature act to protect vernal pools
14 throughout the State. Vernal pools are protected
15 in the State of Massachusetts.
16 Thank you.
17 MR. PROFACI: Grace Mayer.
18 MS. GRACE MAYER: Good evening. I'm
19 Grace Mayer, I live at 10 Wintergreen Avenue as
20 well. I'm reading on behalf of Jeff Wilkinson,
21 20 Crystal Farm Road, Newburgh, New York.
22 I have been paying a great deal of
23 attention to the proposed Market Place project
24 and have been attempting to gain enough
25 information in order to determine an objective

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2 opinion on the project. I am a professional
3 architect as well as a former member of the City
4 of Newburgh Planning Board, so I feel I have some
5 professional background in the planning process.
6 After reviewing much of the D.E.I.S. I
7 have concluded that the project as proposed will
8 have negative impacts on the Town of Newburgh as
9 a whole.
10 My main concern is overwhelming
11 traffic, both car and truck, which of course
12 brings a major increase in noise and air
13 pollution, though not according to the D.E.I.S.
14 statement.
15 A major concern of mine is one that
16 normally does not appear in these traffic
17 studies, it's what major new point source of
18 traffic will do in creating traffic flow
19 throughout the areas of the Town of Newburgh. It
20 is typical that once major routes such as Route
21 300 and Route 52 become less drivable that
22 motorists simply look for quicker routes. Quiet
23 neighborhood streets soon become overflows for
24 the main arteries. This is clearly what's
25 happening and what will continue to happen.

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2 45
3 My other major concern is that this is
4 a project that is clearly aimed to bring shoppers
5 from the major metropolitan, New York area
6 including Westchester, Putnam, Rockland as well
7 as Connecticut. Why must we sacrifice our
8 quality of life for this mega mall?
9 I believe that it is far too large of a
10 project for the Town of Newburgh's road systems
11 and it will be a revisable decision shall the
12 D.E.I.S. be approved.
13 Part of the reason my wife and family
14 truly love living here is a mix of suburban and
15 rural lifestyle which exists. This is a fast
16 disappearing thing.
17 Please consider some of these matters.
18 Sincerely, Jeff Wilkinson. Thank you.
19 MR. PROFACI: Laura Coleman.
20 MR. COLEMAN: Hi. My name is Ted
21 Coleman and I'm speaking on behalf of my mom,
22 Laura Coleman, who couldn't be here because she's
23 recovering from back surgery tonight. I'll be
24 reading her letter.
25 It says I have been a resident and
homeowner in the Town of Newburgh residing at 18

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1 46
2 Wintergreen Avenue for the past
3 twenty-eight years. I appreciate the opportunity
4 to express many concerns I have regarding the
5 proposed Market Place of Newburgh.
6 The Draft Environmental Impact Study,
7 the D.E.I.S., for The Market Place states on page
8 1-10 that the site does not support known
9 threatened or endangered species the State lists
10 as special concern. While the Market Place
11 D.E.I.S. references the 2004 Quassaic Creek
12 biodiversity study written by John Barber, Mr.
13 Barber himself disagrees with their findings.
14 Mr. Barber, in his report to the Town Planning
15 Board, criticizes the poor environmental work and
16 faulty, unsupported and negatively biased
17 ecological analysis found in The Market Place
18 D.E.I.S.
19 On June 23, 2005 Save Open Space sent a
20 letter to the Town of Newburgh Planning Board and
21 the Town Board requesting that a comprehensive
22 ecological study be done based on the 2004
23 Quassaic Creek biodiversity study. The letter
24 was to alert them of the possibility of narrow
25 leaf sedge, an S-1 endangered species, and

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2 Woodland agrimony, a New York State threatened
3 plant species, existing on The Market Place site.
4 The letter also noted a possible vernal pool on
5 the site near the corner of Route 52 and Meadow
6 Avenue. I would also like to add that the
7 Eastern Box Turtle is not uncommon in the
8 neighborhoods adjacent to the site because my own
9 son once tried to keep one as a pet and I know
10 others who have also found them in the area.

11 Based on Mr. Barber's report on the
12 Market Place D.E.I.S., I would like to request
13 that the Town Planning Board at the developer's
14 expense complete a new independent ecological
15 study of the terrestrial and aquatic ecology. I
16 further request that the Town Planning Board
17 engage Mr. Barber to complete the study as he is
18 familiar with the area and an expert on the
19 plants in question.

20 One question I had as I read the Market
21 Place D.E.I.S. was how well this project
22 benefited the citizens of our Town. As a
23 resident who lives near the site it's clear to me
24 that the project will not benefit my
25 neighborhood. It has already caused a number of

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1
2 residents to sell their properties in an attempt
3 to get the most out of them before the project
4 comes in and devalues the homes in the area. The
5 project will also denude 108 acres of forest that
6 our children love to play and hike in and add
7 2,500 cars per hour to our roads further
8 impacting our air quality which has also has been
9 graded by the American Lung Association as an F.
10 They'll blast 480,000 cubic yards of rock from a
11 hillside, possibly destroying our wells and add
12 more runoff to our streams and more garbage to
13 our roads. It will also apparently add vermin to
14 our backyards. There is a management plan in the
15 D.E.I.S. for pest control.

16 To look further than our own backyard
17 and answer my question how will this project
18 benefit the citizens of our Town, I looked up the
19 information on the taxes. It is estimated the
20 Market Place of Newburgh will produce
21 \$467,500,000 in retail sales. It will generate
22 \$40,000,000 of annual real estate and sales tax.
23 Of that the Town of Newburgh will receive an
24 estimated \$270,000 in sales tax revenue and
25 \$242,000 in property tax revenue for a grand

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1
2 total of \$520,000 in annual tax revenues. How
3 will \$520,000 benefit the citizens of our Town?
4 Will it offset the increase of police needed for
5 the increase in crime? Let's take a look at the
6 Town of Woodbury. Town of Woodbury receives
7 \$862,000 in annual tax revenue generated by
8 Woodbury Commons. Of that amount, \$820,000 is
9 produced -- is used by the police department in
10 the Town of Woodbury. Although only
11 twenty-five percent of the police calls come from
12 the Commons, seventy-one percent of the arrests
13 in the Town of Woodbury are generated by those
14 calls.
15 How will the Market Place of Newburgh
16 benefit the citizens of our Town? Some will say
17 that The Market Place will bring 1,600 new jobs
18 to the area. The mean household income in 2000
19 in Orange County was \$52,000. What will the mean
20 income -- excuse me. What will the mean income
21 for jobs generated by The Market Place at
22 Newburgh be? Even the average job is -- even if
23 the average job is greater than minimum wage, we
24 are still talking less than \$20,000 per year, and
25 that is not a living wage in Orange County.

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1
2 Again, how will the Market Place at
3 Newburgh benefit the citizens of our Town? The
4 Market Place will clearly not help our roads.
5 Although The Market Place D.E.I.S. calls for many
6 changes to the roads bordering the site, Routes
7 300, 52, Meadow Avenue and Fifth Avenue, the
8 improvements by their own calculations will be
9 nullified by the addition of 2,500 cars per hour
10 entering and exiting those areas. Route 52 is a
11 direct service corridor to St. Luke's-Cornwall
12 Hospital. Both the Winona Lake Fire Department
13 and the Town of Newburgh Volunteer Ambulance
14 Corp., TONVAC, are located on Route 52. TONVAC
15 states that it is currently very difficult to get
16 to calls through the traffic on Route 52. How
17 can the addition of 1,100 cars per hour on this
18 road be mitigated by adding multi-lane approaches
19 that only cue 15 cars at each intersection?
20 How will this project benefit the citizens of our
21 Town if the ambulance and fire crews are delayed
22 in getting to us in time of emergency?
23 Another area of concern --
24 CHAIRMAN EWASUTYN: Ted, Ted. I'm
25 going to ask you to summarize your statement.

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MR. COLEMAN: I just have a little bit left. Very little.

Another area of concern, that is the current Town of Newburgh water supply. We know that the Town of Newburgh currently taps into the Delaware Aqueduct for part of the water supply. We also know that the Delaware Aqueduct has major leaks disseising around 30,000,000 gallons a day. It's in need of repairs and could take up to one year to complete and will require the shutting down of the Delaware Aqueduct. What is the plan for the Town of Newburgh to supply water to its residents and all new projects that are in the planning stages when the Delaware Aqueduct is shutdown and all we have for water is Chadwick Lake? Again, how will The Market Place which requires 117,000 gallons of water per day benefit the citizens of our Town?

Last but not least, the question of the buffers. While this may seem like a problem solely related to the residents adjacent to The Market Place at Newburgh, it is the concern that every person who lives in the Town of Newburgh should have. The Town of Newburgh accepted the

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1
2 comprehensive Town plan. The laws pertaining to
3 the buffers between the commercial and
4 residential areas have not been enacted. The
5 current vegetative buffer for The Market Place is
6 fifty feet. While there's a buffer alternative
7 that calls for seventy-five feet, even this is
8 not enough.

9 The Market Place D.E.I.S. calls for a
10 fence to be placed at the top of a berm but
11 neglects to mention who is responsible for
12 maintaining the fence. Fifty feet between the
13 back of one's yard and the beginning of an
14 850,000 square foot shopping center is not
15 acceptable. The Market Place at Newburgh should
16 be required to follow the buffer guidelines that
17 are being proposed under the new comprehensive
18 Town plan.

19 How does a shopping center of this
20 magnitude benefit the citizens of our Town? It
21 does not benefit the citizens of our Town. This
22 is the wrong project and the wrong size and of
23 the wrong place for our Town. Instead of
24 mitigating everything around the project to make
25 the area fit the project, the project should be

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mitigated to fit the Town. Thank you.

MR. PROFACI: Elizabeth Riach.

MS. STELZ-RIACH: My name is Elizabeth Stelz-Riach, S-T-E-L-Z - R-I-A-C-H. I reside on Fern Avenue which is proximate to The Market Place project.

I'd like to revisit the buffers again with you. I question would it not be wise to await any new zoning or code changes that are due relative to the Town's comprehensive master plan revisions?

To Mr. Wilder, I'd ask if you can and are willing to assist a handful of residents along Route 52 to mitigate their flooding issues. You have offered financial assistance to restore the manmade Winona Lake, its dam, spillway, et cetera which at best appears to me a tad murky.

Why is it you will not engage in a dialogue with the residents of Hilltop Avenue regarding a more enhanced buffer? Surely a developer who considers himself a conscientious builder would be receptive to re-thinking the numbers.

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2 Regarding the actual site plan, it's as
3 far as -- bear with me. The site plan.
4 Pedestrian friendly? Not from what I've read.
5 There's going to be a lot of traffic congestion
6 it appears. It needs to be reworked. The
7 placement of the big buildings, the placement of
8 the lifestyle center, there's no connection to
9 it.

10 I have a question. What is a lifestyle
11 center? What is it? How is it a focal point of
12 the development? What will be the nature of the
13 establishments? How many? How does this Board,
14 Mr. Ewasutyn, review and analyze it when there's
15 nothing specific given to us so far? The first
16 wave of tenants, let's say they had two years
17 leases. What happens when they go away, they turn
18 around, they don't want to lease the stores any
19 more? What comes in? What are the plans to
20 watch that, or are there plans? Overall the
21 lifestyle center in my opinion is way too
22 ambiguous. I don't know if that's purposeful on
23 the developer's part but I think it needs to be
24 much more specific.

25 The visual impact. I didn't see any

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2 studies regarding the visual impacts. If someone
3 could point me in those directions it would be
4 appreciated.

5 I'm also wondering where is the
6 location of the emergency access to the project?

7 Like some of my neighbors that are
8 here, I have well and septic concerns. It's
9 imperative that this Board puts in some
10 safeguards, see to it that we are protected.
11 It's our water, folks. There is nothing in the
12 D.E.I.S. thus far that protects us. I don't
13 think that's much to ask of you. I guess that's
14 just about it. Thank you.

15 MR. PROFACI: Is there an Elizabeth
16 Riach here that wished to speak? There's two
17 separate people with very similar names. Someone
18 just Liz Reich, R-E-I-C-H? Is that you?

19 UNIDENTIFIED SPEAKER: She signed up
20 twice.

21 UNIDENTIFIED SPEAKER: Someone signed
22 up for her before she got here.

23 MR. PROFACI: And didn't know how to
24 spell her name. All right. Anna Pratt.

25 MS. PRATT: Good evening. I'm Anna

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2 Grabler-Pratt and I live at 41 Wintergreen
3 Avenue. I was wondering before I begin if it
4 would be at all possible to pull up that site map
5 again that was shown in the beginning? That's
6 the one.

7 My name is Anna Grabler-Pratt and I
8 live with my husband John and children at 41
9 Wintergreen Avenue in the Town of Newburgh. If
10 one were to think of Wintergreen Avenue as being
11 something in the shape of a horseshoe, it could
12 be said our family lives in the rounded part of
13 that horseshoe. May I? This is us right here
14 (indicating). Thank you. The back portion of
15 our home, including the bedroom I sleep in,
16 backyard and swimming pool I spend free time in,
17 faces the forested lands which will be forever
18 changed should the proposed Market Place project
19 move forward.

20 Tonight I wish to specifically address
21 the new road which has been proposed. According
22 to the plans I've seen, this road shall come far
23 too close to my backyard feeding off Route 52.
24 It shall not parallel with 300 but instead bypass
25 lands owned by the Department of Transportation

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2 and dip far in coming towards my backyard and the
3 backyard of my neighbor. This shall without
4 question expose us to the constant drum of
5 traffic that would be as a result. The gentleman
6 who spoke first by his own words said that
7 thirty percent, thirty percent of the traffic
8 coming into Market Place would access via that
9 road. It is, after all, desirable for the owners
10 of the mall to have as many cars as possible seek
11 entry to their place of business. We do spend
12 time in our backyard, gardening, swimming, John
13 and I play with our grandson there. At present
14 we cannot enjoy our lives in peace this way. If
15 that road were to come in the quality of my life,
16 the life of my family and my neighbors' lives
17 would forever change. The invisible byproducts
18 of exhausts from these many thousands of cars
19 would find their way into my backyard and the
20 neighborhood.

21 Truly I'm not a cynical person by
22 nature but I fail to believe an eight-foot fence
23 is going to keep the exhaust fumes and the
24 resultant litter and all those negative things
25 that would come from the exhaust fumes of cars

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away from our lands.

Undesired evening lighting, not to mention the litter and pollution that accompanies roads such as these, will in some way, shape or form impact negatively on us.

I am asking this Board to please be responsible and protect us. We do not want this road anywhere near us or suffer in any way the slightest way from the development proposed.

Have you ever traveled on Route 9W from West Point in the summer and seen the burn marks on the trees and foliage from the exhaust from the many automobiles that travel past? I grew up in New City in Rockland and witnessed firsthand the congestion and noise that a polluted and ruined Route 59 in the Towns of Nanuet and Spring Valley since the Nanuet Mall was first built, and now the Palisades Park Mall. Travel in either direction is horrific.

We don't need duplication of services. How many Pier Ones, how many Pottery Barns, how many Targets does any community need? Please think very carefully about the lives of those who live directly adjacent to this proposed project

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2 and how our lives will be changed. Please
3 protect your constituency by denying approval to
4 a road and project that could bring negative air
5 quality, noise quality, lack of evening darkness
6 into our backyards and into our lives.

7 I thank you for this opportunity. Good
8 evening.

9 CHAIRMAN EWASUTYN: At this point I'd
10 like to go back and say that I will begin to --
11 at this point we will go back to just allowing
12 three minutes per speaker for the benefit of the
13 time that we have this evening. So again, that
14 was stated early on and we've been considerate of
15 those in allowing everyone to have additional
16 time but it is taking a toll on the minutes we
17 have this evening. If you could keep your
18 statements to three minutes.

19 Joe.

20 MR. GORDON: Mr. Chairman, a point of
21 order. Eric Gordon on behalf of the mall. Three
22 minutes is simply unacceptable.

23 CHAIRMAN EWASUTYN: Sir.

24 MR. GORDON: From a due process
25 standpoint --

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CHAIRMAN EWASUTYN: Mike Donnelly made a presentation early in the evening. Thank you.

MR. PROFACI: There are a total of fifty-eight people who have signed up to speak here. Even at three minutes we will not be able to accommodate everybody. We only have -- the school has only allowed us until 10:00. That is the reason.

UNIDENTIFIED SPEAKER: The meeting must be extended.

CHAIRMAN EWASUTYN: We're taking all of this under consideration. For the benefit, we have time, let's stick to the program for now.

MR. PROFACI: Christopher Jones is next.

MR. JONES: Christopher Jones, J-O-N-E-S, 105 Locust Lane, Newburgh, New York. I'm just a concerned citizen. This is not professional. I have a running route, it's through the parks. I've been a Newburgh resident since 1997. I used to go across Route 52 at the Ambulance Corp., around Wintergreen Avenue and back across. I can tell you already that the traffic has increased enough to where I have to

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2 change my running route. If your plan is to
3 increase traffic, you've already succeeded.

4 Now I want to go through my questions
5 real quick. Will the Town of Newburgh ever pave
6 Powder Mill Road? Already it's like a war zone.
7 It's proven that you cannot take care of the
8 roads as they are. How are you going to do it
9 with 2,500 extra cars?

10 Next, Algonquin and Cronomer Park
11 facilities are great. Do you have any plans for
12 the safety of our kids crossing Powder Mill Road
13 between parks or over at Gardnertown Road from
14 the parking lot to Cronomer Park? Do you have
15 any plan to do that because the traffic is going
16 to be impossible through there? The reason this
17 is a big concern for me is because Locust Lane is
18 very near Powder Mill Road and Gardnertown
19 Junction. All right. So I already know what the
20 traffic is like there currently.

21 The next thing is if Route 52 is
22 flooded with this amount of traffic, again I'll
23 reiterate how will the Ambulance Corp., the
24 Winona Lake Fire Department and Goodwill Fire
25 Department get to anybody in an emergency

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situation?

What's the projected increase in the police force as we know proven through Woodbury Commons that they have a massive shoplifting problem there that they have to address?

The next is has the developer been working with the head of transportation from the Newburgh school system? The buses are going to be stopped because of that traffic.

One thing that I just thought of tonight, because this is all prepared before tonight, why we have to move the earth. I'm sorry, that's too big of a hill. You don't need to move a mountain to build a mall.

I have a study of my own. At the end of the session on Memorial Day, from 5:30 to 6:30 p.m. I counted 380 automobiles in that hour. That was the Sunday of Memorial Day. That's not high traffic. From all the figures I have here which I'll give you, I'm not a professional, I'm just figuring this out on my own, it will increase to 588 autos per hour. That's just during that time. That's not during peak time. So that is a low-ball figure.

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2 My last question here is this, just
3 from this presentation here Mr. Miller, 400,015
4 square miles of this area. I can tell you that
5 200,000 north of I-84 will come through my
6 intersection. You say that eighty or
7 ninety percent of the traffic will be on Fifth
8 Avenue or Route 300. I'm sorry, it's already
9 proven that the world travels through my
10 intersection, so that is unacceptable.

11 CHAIRMAN EWASUTYN: Chris.

12 MR. JONES: Thank you. All right.
13 That's all I have.

14 MR. PROFACI: I believe the name is
15 Kate Lindemann.

16 MS. LINDEMANN: Kate Lindemann, 12
17 Victory Court. I even printed it.

18 MR. PROFACI: Sorry.

19 MS. LINDEMANN: If anybody has gone to
20 the master plan meetings you know that I am not
21 opposed to development or commercial development.
22 However, I read the E.I.S. report online. I was
23 glad that -- I wanted to thank people for putting
24 it there in PDF form.

25 There are at least three areas, and

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2 people have spoken to them, that if you're going
3 to accept it at all you must address. One is the
4 water. The D.E.I.S. mentions the blasting and it
5 says if a homeowner can prove our blasting did
6 it. I mean science does not prove, it works on
7 probabilities, zero to one and you never get a
8 zero and you never get a one. Homeowners would
9 spend a fortune trying to make a claim there. So
10 there's -- I was glad the hydrologist spoke
11 because even I could think if you black topped
12 something that fills the water table the water
13 table is likely to drop. So there is a problem
14 of wells having to be deepened.

15 Then when they talk about the roads
16 they said they were going to use calcium --
17 sodium chloride which is the cheapest but it's
18 also the most polluting. Most homes will not use
19 it. We at least use calcium chloride. So if
20 you're going to prove it I think what you need to
21 do is to take this company at its word. They
22 have said there will not be a problem. Tell them
23 to take out an insurance policy and if the
24 homeowners in that region have to deepen their
25 wells or if the wells get polluted and they have

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2 to go on Town water, that that will pay. That
3 does three things. It takes care of the concern
4 of the homeowners, it allows the developer to put
5 their money where their mouth is, and it protects
6 the Town because if they pollute the water and
7 the economic crisis they're talking about does
8 come and they abandon it, we're going to be worse
9 than we are with a staler thing because people's
10 wells would be affected. It also gives the Town
11 Planning Board a wonderful way because if the
12 developer said oh, we can't do this, that should
13 be five red flags that they don't trust their own
14 engineering studies. So that's one.

15 Two, security. I notice that they said
16 we can't be compared to Woodbury because Woodbury
17 is 200 units. But Woodbury only became 200 units
18 in recent years. It was 100 units and when it
19 first opened it was 50 units, just the size of
20 the same mall.

21 The cost to the police and the judicial
22 system down there was high. People are talking
23 about this as being a great help if Dynergy loses
24 its taxes. It's not going to be any help to us
25 if we have to add to the police forces or because

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2 the police are taking care of problems or traffic
3 at the mall that there's a rash of burglaries
4 over on Fostertown or over in Balmville. So
5 security.

6 The third is the traffic. I'll be
7 honest, I was awed when I looked at the traffic
8 plan. If I go to Crystal Run, from the very
9 beginning Crystal Run had one entrance and one
10 exit off a six-lane highway. Woodbury Commons,
11 one entrance, one exit off a six-lane highway.
12 If they put something on 52 all the traffic from
13 the northeast is going to come through Taft,
14 Algonquin, Fifth Avenue. We all know that.
15 People do it now. Maybe they don't know it
16 because they're not from here. I assumed that
17 there would be one entrance directly off 84. It
18 makes sense. If the mall is going to be there
19 there should be one entrance, one exit off 84
20 which is a live highway and then allow -- there
21 should not be any entrance on 300. I think you
22 really -- if you're going to approve this thing
23 you've got to guarantee those things.

24 CHAIRMAN EWASUTYN: Thank you.

25 MS. LINDEMANN: Thank you very much.

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MR. PROFACI: Andy Zarutskie.

MR. ZARUTSKIE: Mr. Chairman, I'm here as an observer and I waive my right to speak.

MR. PROFACI: Roberta Lee.

MS. LEE: Good evening. My name is Roberta Lee, I'm at 7 Brookside Avenue. I'm not -- I don't know anything about construction or development but I do see nonstop building going on along 300 and growing residential communities throughout the neighborhoods in the Newburgh area. I am not opposed to progress in any way, shape or form, I just want responsible development. From what I have seen so far I see Wilder, Balter Partners acting as a good neighbor and in good faith. They have held educational seminars, met with the fire department, the ambulance corp. and the Winona Lake Homeowners Association and homeowners themselves. I have no knowledge of what has gone on until now with any of the developers but I have never heard or read anything about anybody looking to improve the roads, add turn signals, time signals -- I'm sorry, turn lanes. Not even the Town itself has improved Route 52 where there are endless

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2 accidents, and that intersection with Meadow Hill
3 is so dangerous. They are in a location and
4 zoned commercial. That seems to be a perfect
5 location for a shopping center.

6 I don't believe we're going to have an
7 endless draw of shoppers because where are they
8 coming from? It's a limited area that they are
9 going to travel from to here.

10 I have a different opinion than the
11 last speaker although I respect her opinion. The
12 developer has not limited themselves to one
13 entrance, which is already overcrowded, on Route
14 300. Personally, Wal-Mart has one entrance or
15 exit I should say unless you can sneak in through
16 Applebee's or whatever that's called. It took me
17 fifteen minutes literally to get out of Wal-Mart
18 on Good Friday. Fifteen minutes. So I see a
19 development of different entrances and exits
20 safer for an emergency. Living on Brookside
21 Avenue, of course I urge you to make that
22 entrance parallel to 84 if possible. The
23 entrance to Meadow Hill with 52 is very, very
24 dangerous. I look forward to that being improved
25 as does the ambulance corp. and the fire

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department.

I personally -- what's in it for me?

Well, I look forward to more shopping options, and jobs, and tax revenue, and no strain on our school system. Like I said, the development just seems endless. I understand that there was big opposition to Stewart Airport being developed and all that was accomplished was the airport came but we didn't get good flight schedules. I work in the travel industry and they're not coming in until we get a road that they can access the airport properly. That's why we don't have direct flights.

CHAIRMAN EWASUTYN: Thank you.

MS. LEE: I'm sorry if nobody agrees but I appreciate the opportunity to have met my neighbors which I did not before. Thank you.

MR. PROFACI: Doug Bard.

MR. BARD: Good evening, Planning Board. Is this loud enough? My name is Douglas Bard, I've lived at 16 Brookside Avenue for forty years and I've been very active in this whole Market Place thing for seven months now.

One thing I know is there's been an

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2 ongoing irony. This is not going to be
3 appreciated but the SOS is totally anti Market
4 Place, very little facts and a lot of emotion.
5 The original core group are Winona Lake
6 residents. There's an open space they can save
7 and that's Winona Lake, and they're against that
8 too. So I can't figure that out. I really
9 can't.

10 Now there's a little more irony.
11 Wilder, Balter held several seminars. It was
12 widely publicized. All the engineers were there,
13 they paid for it, and they did a good job. The
14 maximum attendance at one meeting was thirty.
15 After that it was less. Now, all the questions
16 -- a lot of questions I heard tonight would have
17 been answered there if they were attended. So
18 many people are concerned about the Market Place,
19 why was the attendance so low? I don't know. I
20 did hear from quite a few people that their
21 comments were that isn't so bad, gee this looks
22 okay because they just didn't know. Ignorance.
23 I learned quite a few things.

24 The other thing, and I think you folks
25 on the Planning Board are well aware, the Market

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2 Place is probably the highest scrutinized project
3 in the Town of Newburgh, more than any other
4 building project. There are certainly volumes of
5 PDF files that I don't understand. The plot plan
6 is well thought out. It is changing depending on
7 the final occupants.

8 We need this in our Town and not have
9 to drive thirty minutes or more to try and get to
10 Poughkeepsie or the Galleria. I spent \$50 to
11 fill my gas tank up and that's getting a little
12 stiff, guys, as far as I'm concerned. I'm right
13 there on Brookside, which is fine, go shopping to
14 some upscale places. It's been zoned commercial
15 since the `60s. If somebody was really concerned
16 they should have said something years ago.

17 Now, compare this to the Wal-Mart
18 labyrinth. I won't go there. I think I can get
19 lost in there for about three days can't get out.
20 It's something else.

21 Okay. Now the other thing to get
22 misconstrued is Wilder, Balter Partners are not
23 just a developer, they're not going to build this
24 thing and just leave Town. They are the lessors.
25 They'll be here to maintain the place. They are

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2 basically going to be maintainers. If they are
3 doing what he's doing you can pick up the phone,
4 write a note, do something. You have somebody to
5 go to. I don't see that as a big issue.

6 Road improvements. Route 52 and Powder
7 Mill, computer controlled traffic lights, radio
8 controlled devices in the ambulances and fire
9 engines. We've got that in the traffic seminar.
10 If you were there you would have heard it.

11 Now one final thing, and I won't take
12 your time, is the Route 52 access at Brookside.
13 There's the DOT owned property, and Tim mentioned
14 it before. I would please ask the Board to help
15 us get a right-of-way through there. That's
16 going to answer a lot of questions. That goes up
17 behind the property lines. I live very close to
18 that cul-de-sac. I'll be the second house in.
19 I'm a little further. I'm going to be real
20 close. The next door neighbor is it, and that's
21 Norma Wood. She's been there forever I think.

22 The other thing I think a lot of people
23 are missing, and guess what, there's more racket
24 coming off 84. You're not going to hear the
25 access road. 30 mile-an-hour traffic versus

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70 mile-an-hour traffic. A little different.
That's really all I've got.

The other thing is taxes. Commercial taxes help keep residential taxes down. Town of Newburgh typically is lower on residential taxes than New Windsor. Pine Bush, look what those poor devils are going through.

CHAIRMAN EWASUTYN: Thank you.

MR. BARD: Thank you very much.

MR. PROFACI: Phil Pisano.

(No response.)

MR. PROFACI: Bill Huntington.

MR. HUNTINGTON: Hi. My name is Bill Huntington, I've lived at 11 Wintergreen Avenue for about seventeen years. The majority of the stuff I was going to say people have said.

Again, one of my big beliefs is I commute out of the county as so does my wife through our jobs. On our personal time off I would prefer to spend our money in our backyard. With the upgraded selections of stores five minutes away versus a half hour driving to the Town of Poughkeepsie, I prefer to keep it in Orange County, and I prefer the extra money from

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2 the taxes that The Market Place is going to bill,
3 especially that \$1,800,000 that's going to go
4 toward our school system. I think that's a great
5 investment for our children and for our future.

6 Again, I just believe our tax money
7 should stay in Orange County. Besides that, I'm
8 sure that Wilder, Balter will be here to maintain
9 the property. I think it's going to be sheltered
10 from most of the community. Viewage, they're
11 going to maintain it, professionally landscape
12 it. I think they're going to be held accountable
13 to all the D.E.I.S. regulations and I believe
14 they're going to be a good neighbor to this
15 community. I thank you for your time.

16 MR. PROFACI: Is Phil Pisano back in
17 the room?

18 (No response.)

19 MR. PROFACI: Diana Krautter.

20 MS. KRAUTTER: My name is Diana
21 Krautter, that's K-R-A-U-T-T-E-R. I would like
22 to tell you why I think this 128-acre Market
23 Place project will be an excellent beneficial and
24 worthwhile asset to the Town of Newburgh and its
25 residents. Well, let's see now. How will this

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2 large mega mall really enhance our lives? There
3 must be some good reason. Gosh, adding hundreds
4 and hundreds of more cars to our roads along with
5 more traffic lights, that doesn't seem like a
6 benefit to me. To think just how much more air
7 pollution these cars and trucks will bring.
8 That's not good either. Hmm', the Market Place
9 would bring light pollution, too. I remember
10 some years ago having to drive miles and miles
11 away just to find some real darkness so I could
12 enjoy the activities of a meteor shower. Will
13 the Market Place even affect my looking at the
14 stars at night? Never have I understood why
15 buildings and parking lots have to be so well lit
16 at night. Is that to keep the thieves away or
17 help them find whatever they're looking for? To
18 me it's a waste of electricity.
19 Surely before buying my house in
20 Newburgh many years ago I walked around my new
21 street at 10:00 at night just to see if I could
22 hear those wonderful night sounds I was used to
23 hearing in the summer, tree frogs, crickets and
24 big old bull frogs croaking going around on humid
25 nights. I love these sounds of nature and was

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2 afraid they might not be here on Wintergreen
3 Avenue. To my surprise, most of the wonderful
4 symphony of these sounds are still with us today.
5 But wait, now that over a hundred acres of
6 natural woodland habitat will be destroyed along
7 with its vernal pools and wildlife, there won't
8 be any natural earthy sounds, just roaring diesel
9 delivery trucks at The Market Place. Well,
10 that's no enhancement either.

11 The more I think about all this, ladies
12 and gentlemen, I'm realizing that I can't think
13 of one single benefit The Market Place will bring
14 to the Town of Newburgh, to the folks that make
15 their homes here, to the children or the existing
16 businesses. More traffic, more pollution, more
17 housing, more condos, more of this, more of that,
18 destroying open space, destroying our environment
19 all in the name of progress. Nonsense.

20 Let the Newburgh Town Planning Board
21 find The Market Place an unsuitable, undesirable,
22 unacceptable project as planned on Route 300
23 right across the street from the already existing
24 Newburgh Mall. Thank you.

25 MR. PROFACI: Eleanor Doderer.

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MS. DODERER: My name is Eleanor Doderer, D-O-D-E-R-E-R, I live at 83 Wintergreen Avenue. Mr. Chairman, Board Members and guests, I would like to discuss three issues.

First, according to the D.E.I.S., The Market Place is anticipated to employ 1,600 people in various positions including sales, management, administration, accounting, security and maintenance. However, I believe the bulk of these positions would be in the sales, security and maintenance sector. According to the U.S. Department of Labor Statistics, May 2005, the New York State annual salaries in those occupations range from \$15,900 to a high of \$26,000. The D.E.I.S. reports the 2000 median household income for Orange County was \$52,000. Taking into consideration the average price of housing in the Town of Newburgh, it seems reasonable to assume most of those employed at The Market Place would be unable to afford to reside here. Once again comes into play the issue that many of those who work in the Town of Newburgh often are unable to live here due to low wages and the high cost of living. How will jobs of this nature benefit

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residents of the Town of Newburgh?

Another concern I have is this issue of gambling. In The Times Herald Record dated January 2005 Senator Bill Larkin said Orange County should get one of the eighty video lottery terminals proposed. "I don't see nothing wrong with Orange County getting the LT" said the chairman of the gaming committee. Last year a Rochester developer proposed a VLT parlor in the Town of Newburgh near the intersection of the Thruway and Route 84. I quote again, "I like his location," Larkin said. "It's in my senate district." An article in The Times Herald Record of May 28, 2006 states Hudson Valley Senator Bill Larkin recently drove down to his opulent Florida mansion to help collect contributions from the gambling industry. It seems strange that almost nothing is being written about this issue. This is a hidden issue.

Third, Wilder, Balter has stated the Town will receive \$550,000 per year in taxes. All commercial projects in the Town of Newburgh benefit from the economic development. The Town will only receive one half that amount the first

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2 five years and it would take ten years to get to
3 the full value of taxes. The possibility also
4 exists however that the mall may receive tax
5 abatements. Will the tax benefits at maximum
6 even begin to cover what it will cost the
7 taxpayers? If more big business is the answer to
8 our financial problems, I would ask why is it
9 that in the forty-three years I have lived in the
10 Town taxes have consistently increased while the
11 quality of live has consistently decreased.

12 As a life-long resident of the area I
13 would as the elected and appointed officials of
14 the Town of Newburgh to begin to take
15 responsibility for the environmental changes they
16 are making which will destroy forever the natural
17 beauty of this area. In my opinion spiritual,
18 emotional and the physical needs of the residents
19 should be just as important a concern as
20 financial needs.

21 To be perfectly honest, I feel betrayed
22 by the Town of Newburgh officials. The Town I
23 believe is at the point where the area is almost
24 unrecognizable. Will this mall be the final blow
25 and then there will be no turning back? Thank

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you very much.

MR. PROFACI: John Gebhards.

MR. GEBHARDS: I'm John Gebhards, G-E-B-H-A-R-D-S, and I live at 48 Wintergreen Avenue in Newburgh. Even though little was written in our coding zone about the quality of life in the Town of Newburgh, this is really the essence of why we have planning boards, town codes and regulations. Often there's much interpretation allowed by the Planning Board, and I suggest that the Board should give preference to quality of life of our citizens rather than to profits that can be made by an individual or a development firm. The greater good should be served with the largest number of people. When the two are compatible, then we have the capitalistic partnership working at its best.

There are a number of aspects of The Market Place project that certainly do not serve the general public good. Air pollution. We've heard and we know that ozone in Orange County is in a noncompliant stage. The D.E.I.S. for the project states that "Ozone and smog are known lung and eye irritants." That means asthma and

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2 emphysema. "Ozone is being addressed at the
3 State and Federal level, therefore no further
4 analysis for ozone is warranted." That's the
5 statement in the D.E.I.S. Does that mean that
6 the Town, the Town Board and Planning Board have
7 no responsibility to participate in reduction of
8 ozone causing pollutants in order to protect our
9 public health?

10 This project was originally promoted to
11 be one to draw shoppers from miles around.
12 However regarding air quality, the D.E.I.S.
13 states, "The Market Place will not result in a
14 significant increase in vehicle miles traveled on
15 a regional basis." Therefore it is claimed that
16 consideration of the impact of ozone produced by
17 the project is not warranted. When considered
18 with all the other development taking place in
19 the area that brings in additional traffic, this
20 increased pollution may be significant. We need
21 to know as The Market Place is the largest by far
22 of the developments being built along Route 300.
23 I ask the Planning Board to require as is
24 provided through the SEQRA process that The
25 Market Place developers do a cumulative impact

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2 study on traffic, its related pollution and
3 potential health impact on our citizens, then you
4 as the lead agency have the information to
5 evaluate if the quality of our lives will be
6 impacted.

7 Traffic other than above referenced
8 I'll leave to others mostly, however we need to
9 have a detailed discussion of the financial cost
10 of lost productivity. Who will pay for the
11 obvious upgrade in transportation services and
12 the potential delays in emergency services, not
13 to mention the mental health aspect of being
14 stuck in traffic jams? All of these need real
15 answers, not just a they will be taken care of
16 type of reply.

17 Biodiversity in the area. The Quassaic
18 Creek is designated in the Orange County Open
19 Space Plan as a significant wildlife biodiversity
20 area. 126 acres of this project are a vital part
21 of this corridor. This development plan has
22 certainly taken no concerns for wildlife that
23 currently live in that portion of the Quassaic
24 Creek corridor. The Market Place is so lacking
25 that it will totally eliminate any existing

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2 habitat on over 100 acres of the 128 leaving only
3 a portion of the wetlands intact.

4 The inadequacy of the terrestrial and
5 aquatic section of the D.E.I.S. is such that we
6 should require a complete additional detailed
7 survey of flora and fauna of these wetlands and
8 forest so we know what's there. Only when that's
9 done can the Board again have the information to
10 determine the proposed development.

11 CHAIRMAN EWASUTYN: John, I'm going
12 to --

13 MR. GEBHARDS: The wetlands that are
14 being filled amount to forty percent of the area.
15 Although they're going to mitigate, and that's
16 almost 6 acres, they're going to mitigate only
17 1.7 acres. The Corp. of Engineers has given them
18 the option or the waiver on 4.8 acres of
19 wetlands. Tell the frogs and salamanders their
20 homes don't matter.

21 CHAIRMAN EWASUTYN: John, thank you.

22 MR. GEBHARDS: I will turn in the rest
23 of my comments. Thank you very much.

24 MR. PROFACI: Michael Torelli.

25 MR. TORELLI: Michael Torelli, 12

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2 Valentine Road, Newburgh, New York. I would like
3 to say that myself and my family are very much in
4 support of this project, and the reasons being
5 are trifold. There are just so many.

6 The potential negative aspects are far
7 outweighed by the definite positive aspects of
8 this project. The Department of Transportation
9 is already going through a \$60,000,000 plus rehab
10 of that interchange. You already have Drury Lane
11 being built. You have two major projects in
12 excess of \$100,000,000 to alleviate traffic on
13 the State level. Also on the State level this
14 site has been on the New York State site finders
15 list for well over twenty years. This has been
16 targeted for development on a State level for a
17 long time. On the County level, it's been on the
18 County's economic development website and
19 targeted for development for a very long time.
20 The previous owners, the Miron family as some of
21 us may know, had a home business where they would
22 sell different building materials and stuff.
23 They previously owned the property. The property
24 has been on the market and it's at the
25 interchange of two major interstates. This is

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2 where malls are built. It has all the proper
3 infrastructure. This is where malls are built.

4 When it comes down to talking about
5 potential job creation, when we look at the
6 average unemployment rate in the area it usually
7 runs between four to five percent county wide and
8 roughly just above that maybe statewide.
9 Remember, the Department of Labor at the State
10 level measure that for people above
11 eighteen years of age and people below sixty
12 five. A true measurement is taking anyone who is
13 eligible to work, including people under the age
14 of eighteen and over the age of sixty-five in the
15 immediate area, in particular the City of
16 Newburgh, they have had a double digit
17 unemployment rate. 1,600 jobs will positively
18 affect and weigh heavily over the potential
19 negative aspects of this project.

20 When we talk about potential taxes,
21 everyone should understand that a balanced growth
22 is necessary. Take a look at your next Planning
23 Board agenda. I think there's fifteen items and
24 they're all residential projects. When you take
25 a balance to outweigh some of this, positive

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2 commercial development creates jobs and lowers
3 residential tax burden. It's a proven fact. The
4 proven fact is as more and more businesses come
5 in, they can go ahead and offset the potential of
6 future impacts and future increases in school
7 taxes and property taxes and diversify, spread it
8 out. In the Town of Newburgh you're tops in the
9 actual county. Over 54 percent of the taxes paid
10 in the Town of Newburgh, all the taxes, are paid
11 by the commercial industry. That's a very, very
12 strong fact. What ends up happening is when
13 those increases do have to happen they're spread
14 out and they affect the residential landowner and
15 homeowner less.

16 In closing, some of the things that we
17 should be very proud of is that we have a local
18 developer who has done stuff before. This is not
19 a startup, this is not a company who hasn't been
20 around. We know where they are, we have seen
21 what they have done, we've seen what they can do.
22 For all intensive purposes I think that the
23 majority of people, once they understand the true
24 concept of positive commercial development, it
25 will outweigh the aspects of the potential

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negative impacts. Thank you.

MR. PROFACI: Vaughn Ecus.

MS. ECUS: Thank you. No comment at this time.

MR. PROFACI: Calvin Hyatt.

MR. HYATT: I'll make it short and sweet. Calvin Hyatt, H-Y-A-T-T, 2 Hilltop Avenue, Newburgh, New York. As per The Market Place at Newburgh D.E.I.S., page 1-29, 1.3.9, air quality, it states no significant adverse air quality impacts will result from the proposed project. How can this be? On 4/29/06 The Times Herald Record article stated Orange County got an F on ozone levels from the American Lung Association. Over a hundred acres of trees proposed to be destroyed by this project, air purification will most definitely be affected. An additional 2,500 cars per hour coming into our area will bring major air pollution with it. As a person suffering with asthma and many more who have these problems, this extra pollution to the air will have a huge affect on us. The D.E.I.S. has no plan of attack for this future problem.

As a thirty-two year resident and

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2 taxpayer I ask that the Board will consider and
3 demand Wilder, Balter to come up with a firm plan
4 of action. They do not care about Newburgh
5 citizens or our air quality. Please don't let
6 Wilder, Balter pressure you on this mall project
7 which Newburgh citizens and surrounding area
8 people do not want. Ask not what Wilder, Balter
9 can do for you but what the Board will do for its
10 citizens and residents. Don't take away our air
11 and our water. Thank you.

12 MR. PROFACI: Maureen Halahan.

13 MS. HALAHAN: Good evening. My name is
14 Maureen Halahan, H-A-L-A-H-A-N. I'm the
15 president and CEO of the Orange County
16 Partnership, 40 Matthews Street in Goshen. I'm
17 here on behalf of the board of directors of the
18 Orange County Partnership. We will also be
19 formally submitting a letter of support for this
20 project for the following reasons and probably
21 more than I'll have time to mention. I'm going
22 to be very brief.

23 Aside from it being zoned
24 appropriately, it does not ask for any variances
25 for the project. It has been aligned with the

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2 Town's master plan, the Town's long-term growth
3 plan and the priority growth plan. It's going to
4 generate over \$1,800,000 in real estate taxes per
5 year. I find it really appropriate that we're
6 here tonight in a school that is supported by tax
7 dollars, so I think that we really have to pay
8 special attention to that and also the special
9 districts that it will be supporting, the fire
10 departments and the volunteer ambulance.

11 You really can't be a volunteer in your
12 town if you're commuting two hours a day for
13 jobs, so I would like to speak about those 1,600
14 jobs really quickly. There is room for part-time
15 jobs. High school kids, college kids, senior
16 citizens need jobs, these type of retail jobs.
17 On top of that, the Department of Labor has also
18 stated that the management jobs in retail begin
19 at about \$60,000 a year. There are HR positions,
20 there are maintenance and security jobs. We
21 never mentioned anything about construction jobs
22 while this whole project is underway.

23 Wilder, Balter has a stellar track
24 record. We have worked with them for some period
25 of time now. They are local developers, they're

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2 not going anywhere and they have really worked to
3 provide detailed information to the local
4 community. I have a great deal of experience as
5 the president of the Orange County Partnership in
6 working with economic development, working with
7 developers. I have very, very little experience
8 working with developers who are willing to invest
9 in off-site rehabilitation, such as Winona Lake,
10 which will positively impact the quality of life
11 and the open space for the community.

12 I thank you very much for your time
13 this evening.

14 MR. PROFACI: Mike Anagnostakis.

15 MR. ANAGNOSTAKIS: Hi there. I'm Mike
16 Anagnostakis, that's A-N-A-G-N-O-S-T-A-K-I-S, and
17 I'm on 3 Brookside Avenue. I want to thank the
18 Town Planning Board for their time tonight.

19 Over seventy years ago Franklin
20 Roosevelt said working together intelligently,
21 congress and government can forge a bright future
22 for the people of this nation. Today in Newburgh
23 we see the spirit of intelligent cooperation in
24 action. We see it in the 1,600 permanent new
25 jobs which will be created for the community. We

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2 see it in the \$40,000,000 of tax revenue that
3 will be generated each year. Millions will go
4 into improving schools and the emergency
5 services. Millions of it will be available for
6 additional Town improvements, and certainly this
7 additional tax revenue will help ease the
8 property tax burden of all the homeowners. We
9 thank the Town Planning Board for following the
10 Orange County comprehensive plan which targeted
11 this land to be a prior growth area. Cooperation
12 is evident in other places also. We certainly
13 see the spirit of intelligent cooperation in
14 action when one third of the 120-acre site is
15 left green or undeveloped. We see the spirit
16 when buffer zones are increased fifty percent
17 above and beyond what the law requires them to
18 be. We see the spirit when the level of service
19 actually increases at the roadways impacted
20 because of intelligent road upgrades. We see the
21 spirit when monies are piled back into the
22 community to make improvements to our parks, our
23 lakes and our roads. We see it when the
24 community asks for an alternative road plan to
25 move the roadway 250 feet further away and the

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2 developer cooperates with the Town Board to get
3 it done. We thank the developer for his socially
4 responsible cooperation. It is all too easy to
5 allow the veils of fear and darkness to blind us,
6 but when the veils are lifted one sees that
7 intelligent cooperation is possible.

8 Again I thank the Town Planning Board
9 and the developer for their actions. The future
10 is indeed bright for Newburgh. Thank you.

11 MR. PROFACI: Sybil Tulve.

12 MS. TULVE: My statements have already
13 been made but I reserve the right to submit a
14 written statement.

15 MR. PROFACI: Thank you. Jeff
16 Wilkinson.

17 MR. WILKINSON: Jeff Wilkinson,
18 W-I-L-K-I-N-S-O-N. Most of my comments have
19 already been stated. Just a few ideas that I
20 wanted to bring up.

21 One is is there any plans for public
22 transportation between the City of Newburgh and
23 this mall? That would alleviate transportation.
24 It would also help people that might have jobs to
25 be able to get to the job as many of them don't

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have cars. I want to raise that.

In terms of a sound buffer, everybody knows that mass is the main coefficient. You need masonry to actually reduce sounds. Wood fences do not work. We all know that.

The last thing I would like to raise is most of these malls are single story. Can they be introduced as two or three stories with vertical transportation just also reducing the amount of footprint required?

Are there other sustainable green architecture implements? Why couldn't there be a different type of mall where those components like using green growth which would help mitigate stormwater and also other aspects. This could be modeled for something very different. It could be amazing. I just wanted to bring those up.

MR. PROFACI: Russ Davis.

UNIDENTIFIED SPEAKER: They left.

MR. PROFACI: Dr. Michael Edelstein.

MR. EDELSTEIN: I'm Mike Edelstein, E-D-E-L-S-T-E-I-N, I live at 26 Murray Avenue in Goshen. I'm here tonight as president of Orange Environment which is an environmental

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2 organization in this county that's been working
3 for a sustainable Orange County for more than
4 twenty-five years.

5 My concern tonight is the extent to
6 which the Environmental Impact Statement serves
7 as an adequate platform for really anticipating
8 and addressing significant or potentially
9 significant issues that it's incumbent upon these
10 Boards to weigh in making a decision about what
11 to require and what to approve.

12 Let me note I'm also the head of the
13 environmental studies program at Ramapo College
14 in New Jersey. I have a Ph.D. in psychology.
15 I'm an environmental psychologist.

16 Part of my concern tonight is in the
17 expert realm, not just my realm as a community
18 activist. When I first came to Ramapo in 1974 I
19 engaged in several years of study of the
20 phenomena of Paramus, New Jersey. It was
21 interesting because our specific study was on the
22 impact of traffic on the residential quality for
23 people living in Paramus, both traffic on
24 highways and traffic on secondary roads. It
25 became very clear in our work as well as the

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2 other work that exists in the professional
3 literature that inducing traffic into areas that
4 are heavily residential has only one impact which
5 is it degrades the quality of the residential
6 experience. Congestion has an extremely negative
7 effect. The noise intrusion, there are a whole
8 host of issues that occurred in our research but
9 are well established in the literature. The fact
10 that they are discussed or considered given the
11 proximity of the Winona Lake community, the fact
12 that they are not discussed in the Impact
13 Statement raises one of a number of concerns I
14 have about the adequacy of the Impact Statement
15 in laying a foundation for you to really weigh
16 this project and draw conclusions.

17 What we see in the project description
18 is the idea of a lifestyle center as a bone for
19 talking about traditional neighborhood values.
20 Again in reality the project has many aspects
21 that degrade or destroy community values rather
22 than create them, and in fact the lifestyle
23 center is interestingly enough occupying the area
24 of the site furthest away from the residential
25 neighborhood and its "pedestrian friendly area"

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2 of the shopping area you would have to drive to,
3 it can't be walked to because it's not proximate
4 to the closest neighbors. That raises the
5 question of whether the contention in the Impact
6 Statement there's protection and enhancement of
7 existing community character is in fact true.
8 Also a question as to whether or not the intent
9 to serve only people within a fifteen-mile radius
10 is accurate given the intention beyond the
11 lifestyle center to have big box stores that have
12 a draw that is much wider, and we have along
13 Route 84 the possibility of a Danbury-Newburgh
14 kind of strip which is reminiscent of other areas
15 where we have this kind of commercialization.
16 We can look of course to Woodbury as we
17 have in the comments of many of the speakers to
18 get a sense of what some of the experiences are
19 of people who live proximate to large shopping
20 centers. I can tell you from my work in Woodbury
21 that I have found intense opposition to anything
22 that would induce additional traffic among people
23 living in the community because they're the ones
24 who bear the adverse impacts associated with it.
25 People have talked about the cost to the

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2 community as well. Anything that induces more
3 traffic on Route 84 is a concern, as is Route 17.
4 Route 84 is a main street for Orange County even
5 as it's simultaneously an interstate highway and
6 through road, and yet at the same time we see
7 increasing congestion and we see increasing
8 events that cause complete standstills of traffic
9 and the eventual impacts as it has been pointed
10 out to the economic viability and the quality of
11 life for the region are a major concern. We have
12 to be very careful about inducing additional
13 traffic on these roads.

14 CHAIRMAN EWASUTYN: I'm going to allow
15 you two more minutes.

16 DR. EDELMAN: That's fine. Thank you
17 very much.

18 The Impact Statement does not even
19 discuss cumulative effects as John Gebhards
20 pointed out, and that should be done with regard
21 to traffic, with regard to air and other
22 features. It doesn't, as it's required, talk
23 about long-term as well as short-term impacts.
24 That's missed. The discussion of growth inducing
25 impacts is not accurate. It leaves out the

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2 impacts of sprawl and inducing traffic growth
3 over a large area. In fact, there's a statement
4 on page 1.16 that's completely I think inaccurate
5 about being consistent with the Town's objectives
6 to avoid sprawl.

7 The issues of air pollution have
8 already been discussed but I would add the issue
9 of particulate matter to the concerns raised
10 about ozone because in fact we're in Orange
11 County not in compliance for particulate as well
12 as ozone. That is not even acknowledged let
13 alone discussed in the air section.

14 Problems with visual and noise impacts
15 have been mentioned.

16 Let me mention the energy analysis is
17 completely deficient because it has to take into
18 account where the traffic is going to come from
19 and what the energy impacts, and the pollution
20 impacts, and the global climate change impacts
21 are of this traffic impact.

22 Wetland issues have been pointed out,
23 that they are in fact deficient.

24 The whole issue of alternative
25 construction for the site is deficient. It's not

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2 necessarily the case that the site should not be
3 used for something or has no purpose, but more
4 mixed uses of the site should be also considered.

5 It's been pointed out that
6 irretrievable and irreversible impacts of changes
7 to the site, particularly around issues of
8 recharge and groundwater in other areas as well,
9 are significant.

10 CHAIRMAN EWASUTYN: Thank you.

11 DR. EDELMAN: I would urge you to make
12 sure these issues are fully considered by the
13 time you get to the Final Impact Statement or
14 don't accept it because it's only if that Final
15 Impact Statement provides for a finding statement
16 by your Board that is completely comprehensive
17 that you'll have a basis for making decisions on
18 this project. Thank you.

19 MR. PROFACI: Art Fowler.

20 MR. FOWLER: My name is Art Fowler, I
21 live at 8 Snyder Avenue in the Town of Newburgh
22 and I also own property on Innis Avenue where my
23 family members live.

24 I am here tonight to speak in support
25 of this project. Most of the positive facts I

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2 was going to mention have already been mentioned,
3 and quite well by Mr. Torelli about the finances,
4 the tax, the support to our neighbors, the
5 infrastructure of the Town.

6 When I bought my property on 8 Innis
7 Avenue I knew what the zoning was because I am
8 familiar with the zoning maps, and I accepted
9 that when I bought my property. I think other
10 neighbors should as well.

11 I hear my friends and neighbors talk
12 about their health concerns. I think that should
13 be one of your primary concerns.

14 I want to make a point tonight and my
15 only point is that people that think positive
16 about these projects have a tendency not to come
17 and speak, so I don't want you to think because
18 there's not a lot of positive speakers here
19 tonight that the Town doesn't have faith in this
20 Board to make the proper decision for our Town.

21 Given we want a project like this in
22 our Town, I think this one is very well done. It
23 couldn't be nested any place more appropriate for
24 the Town to minimize any of the impacts that were
25 spoken about earlier.

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I encourage you to -- I know the SEQRA forms are not easy to get through and neither are the environmental impact studies, so they will take care of themselves and your judgment will prevail on that.

We want a project like this for our Town to keep our taxes in order on the residential properties. I think this is a fine project and I give it my full support. Thank you much.

MR. PROFACI: Ellen Jane Gonyea.

MS. GONYEA: Ellen Jane Gonyea, 26 Linden Drive, Newburgh in East Coldenham. Thank you for the opportunity.

Before addressing several specific sections of the D.E.I.S. I'd like to make a general statement, the opportunity for which has not been provided previously. I'm in agreement with the judgement of a significant number of the Town population that a project of this magnitude is not in the best interest of our current taxpayers due to the costly increase of public services that will be required to sustain liability with such a large intrusive new

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2 neighbor. Past experience at attempting to have
3 code compliance, and neighborhood traffic, and
4 security issues handled concerning the Pilot
5 Truck Stop prove this over and over again. This
6 new mall is being built for transient users like
7 Woodbury Commons, not for current taxpaying
8 residents.

9 Concerning taxes. Should this new mall
10 go in, \$0.40 per \$1,000 on an \$885,000 house,
11 that equals \$354. Concerning those taxes, we
12 talk about the loss of tax money should the
13 Dynergy suit go against the Town. School taxes
14 generated through this property, and correct me
15 for my accountancy misconceptions if they are
16 that, school taxes for this property will go to
17 the Newburgh School District and that's not the
18 school district I live in. The school district
19 that I live in is Valley Central School District.
20 Dynergy is Marlboro School District. So correct
21 that fallacy. There are four school districts
22 for this Town. That money is not going to all
23 the citizens of this Town.

24 I support the development of this
25 property along the lines of the village center, a

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2 model of which was proposed out of Congressman
3 Hinchey's office early on in negotiations amongst
4 the community and the developer. The mixed use
5 of a village center, town center if you want,
6 would include small business retail
7 opportunities. That enhances and sustains
8 private enterprise, private enterprise that is
9 touchable by residents who may own those small
10 businesses, not concerns that may come out of
11 Knoxville, Tennessee as the Pilot Truck Stop. A
12 village center might also include townhouses.
13 People pay taxes. People who pay taxes are
14 concerned citizens. They meet their neighbors
15 and they speak up and help determine how taxes
16 are spent. A village center would include a
17 civic center for this Town where virtually there
18 is no good place to meet. It's pretty hot in
19 here today, isn't it, and it's going to close at
20 10:00. It would have a lifestyle center. The
21 enhancement would include restaurants, museums,
22 art centers which we don't have in our Town, and
23 parking -- excuse me, park facilities and
24 recreation. We have a commissioner of park.
25 Park? We haveE've one park. This was an

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2 opportunity to add open space and recreational
3 use. It's development, it's sustainable, it
4 protects the right of the developer to use his
5 private property but adheres to the needs of the
6 community. Such development plans would be of
7 primary benefit to the concerned resident
8 taxpayers now rather than to a transient tourist
9 shopping population.

10 CHAIRMAN EWASUTYN: Ms. Gonyea, I'll
11 give you another two minutes to close.

12 MS. GONYEA: I'll finish my comments.
13 Since the document we are reviewing tonight is
14 huge, I'm using my time to specifically address
15 three issues.

16 Blasting. The blasting needed to
17 displace a portion of this 128 acres will impact
18 on three specific neighborhoods.

19 Mitigation offers. Pre-blasting
20 inspection, use of blasting mats and well
21 monitoring of those within 500 feet. Increase
22 this to 1,000 feet, get the other few houses
23 involved. Insurance gives good faith. It might
24 create a good neighbor. Make installation of
25 particular filters for water. It says may be

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2 considered. Provide residents with safe off-site
3 lodging during the blasting. Guarantee
4 restitution for damages by prearranging the
5 insurance riders.
6 Water runoff, 3.53. 128 acres of land
7 will be covered by 75 acres of impervious parking
8 and buildings, leaving 53 acres of land to absorb
9 and route all water runoff. This runoff will
10 include sharp increases of contaminants, lead,
11 zinc, copper, chromium, nickel and add for six
12 months of the year deicing chemicals.
13 Underground fractures and conduits are inadequate
14 at this point to sustain the runoff, especially
15 from Meadow Winds, and the Meadow Winds problem
16 is a local problem to the concerns of the
17 proposed Market Place mall. Trying to solve one
18 without solving the other makes no sense.
19 CHAIRMAN EWASUTYN: Ellen -- Ms.
20 Gonyea, your time is up.
21 MS. GONYEA: Mr. Ewasutyn, not too
22 much. Mr. Ewasutyn, I'm going to continue.
23 Saying that you are going to use a
24 generic New York State stormwater management
25 manual and guidelines for urban erosion and

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1 sediment control is not going to mitigate the
2 reality of 52 and 300.
3
4 Traffic, 3.6.16. Sixteen of the
5 intersections to be impacted by the project are
6 DOT level of service ratings Ds and Fs and most
7 of the rest are C. As I previously noted to this
8 Board, emergency hospital routing for St. Luke's,
9 Newburgh has not been considered and you have not
10 projected an adequate plan for holiday use of the
11 area to enter across from the Newburgh Mall.
12 Recall that Town of Woodbury required a state
13 police substation to manage 6 and 32 when the
14 Commons went in.
15 Finally, the comment period ought to be
16 extended to September 1st. Full access to this
17 site should be guaranteed to members of the
18 community wishing to seriously study the project.
19 The experts who were hired by concerned citizens
20 who have well founded State and National
21 reputations being insulted by being limited to
22 the three-minute speaking opportunity here
23 embarrasses me as a concerned citizen of this
24 Town. Thank you.
25 MR. PROFACI: Josefa Mandarino.

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2 MS. MANDARINO: My name is Josefa
3 Mandarino, I live at 15 Starrow Drive. The last
4 name is spelled M-A-N-D-A-R-I-N-O.
5 Less than thirty days to review three
6 massive volumes of information is just plain
7 wrong. I think that the citizens obviously don't
8 have the financial or human resources that the
9 developer has at his disposal and the Town that
10 is supposed to represent all of its residents,
11 not just wealthy developers, needs to give us
12 more time to make comments as well as to
13 reiterate what Ellen Jane said about the three
14 minutes. I know that you said you wanted to hear
15 what we had to say and then you limit us to three
16 minutes, and that's just not congruent.
17 I do want to comment on a lot of things
18 that people said here tonight. First, I just
19 want to mention that -- I just want to clear up I
20 think there's some inconsistencies. The meetings
21 that were eluded to that were held by Wilder,
22 Balter and lots of people didn't attend, lots of
23 people didn't know about it. Apparently this was
24 not put out to the entire Town and not everyone
25 knew about it, so there was a small group of

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2 people that were involved in that.

3 As far as I know about the developers,
4 and I'm not saying I know all about them. As far
5 as I know they have not built a mall before, that
6 most of their development is related to housing.

7 Some of the folks that have positive
8 comments, while I'm happy that people have
9 differences of opinions, should possibly have
10 stated that they may actually profit by this
11 because there's a manmade lake that possibly
12 might be repaired. That's what I'm hearing. I
13 don't know if that's a rumor or a fact. While I
14 would be happy if they were doing that for me, I
15 live on Starrow Drive which is almost adjacent to
16 the property. I mean I've never been included in
17 anything in terms of being asked to participate
18 in meetings.

19 As far as the Town, Tim Miller
20 mentioned that, you know, the Town has a plan for
21 this center, the County has a plan, the State,
22 it's designated as such. A mall is not a town
23 center.

24 Somebody here mentioned intelligent
25 cooperation. I was part of the group that went

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2 to Congressman Hinchey's office as part of this
3 process and talked about an overlay area where
4 there could be intelligent development, something
5 for the people in this Town. In my opinion
6 there's been a lack of vision, imagination and
7 consideration for the residents of this Town.
8 The town center should offer things like art and
9 meeting halls. Intelligent development isn't
10 just about humans, it's about the flora and fauna
11 and quality of life here.

12 I also understand, though I've not
13 heard this firsthand, that the developer has an
14 appreciation for art and aesthetics. I would
15 challenge him to go ahead and make this creative
16 process or project artful and aesthetically
17 pleasing.

18 Other than that, I just want to say
19 that I spent a lot of time trying to read through
20 three volumes and don't feel like I'm going to be
21 given the opportunity to point out what I see or
22 as many inconsistencies in what's written in that
23 information. I'm not saying this from a
24 technical point of view but there are many
25 inconsistencies that extend to not only the

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2 project upon its completion but what's going to
3 happen during the process and how it will affect
4 people in the area.

5 Rock crushers. In one place they say
6 there will be no noise. Rock crushers, large,
7 loud. There should be some kind of controls with
8 sound panels, water curtains.

9 Wetland issues. There's only one
10 mitigation submitted for consideration here.

11 I myself have moved Box Turtles in the
12 roadway, so I'm concerned about really what's
13 being done there.

14 The New York State --

15 CHAIRMAN EWASUTYN: I'm going to ask
16 you for your closing statement for the courtesy
17 of those waiting.

18 MS. MANDARINO: I really feel people
19 got a lot of time to speak. I would like another
20 minute. Can I do that?

21 CHAIRMAN EWASUTYN: You have a minute.

22 MS. MANDARINO: Okay. Thank you. The
23 traffic problems are enormous. Only two out of
24 all of those intersections are shown to -- will
25 actually have improvement on them.

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2 I just want to mention one or two other
3 things. Fire protection, solid waste dumpsters.
4 Who is going to take care of that? All of those
5 things are sectioned off. People will get their
6 own police, their own security. It's not a
7 unified process where there's one security for
8 that whole mall or garbage disposal. I live
9 there now, I see the problems with police, with
10 the garbage where we have all kinds of birds
11 bringing debris around. We talk about the virus
12 and bird flu and all of that. There's a health
13 issue of concern to me there.

14 Ambient noise, air quality, the visuals
15 from Orange Mill Historic Park, and certainly the
16 architectural theme which is barely existent.

17 So I would challenge this developer to
18 really do some intelligent cooperation in putting
19 this project together and include everyone in it.
20 Thank you.

21 MR. PROFACI: Michael Murphy. Michael
22 Murphy.

23 MR. MURPHY: My name is Michael Murphy,
24 M-U-R-P-H-Y. Good evening, Town Board, ladies
25 and gentlemen.

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2 Buffer zones. An area designed to
3 buffer and protect against sight, sound and
4 damaging effects. One buffer zone designation
5 cannot fit all circumstances in a town. We have
6 been residents of 6 Hilltop Avenue, a residential
7 area of approximately twenty-five homes, for the
8 last fifty-five years. We raised our three
9 children and enjoy a very peaceful lifestyle.
10 Our residential area that abuts the 100 plus
11 acres of The Market Place project is going to be
12 subjected to extensive blasting.
13 I want to take a minute and show
14 everyone where we live. There's five, six houses
15 right here fifty feet away. Fifty feet.
16 Extensive blasting in our immediate
17 area. They will be blasting a total of
18 480,000 cubic yards of material. This extensive
19 blasting in our immediate area would be putting
20 our wells, our sole source of water, that's all
21 we have, there's no Town water up there.
22 Everybody says we can't get it up there because
23 it's solid rock. That's all the water we have.
24 Now when they destroy it where do we go? What do
25 we do? No answer. I'm afraid that's what's

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1
2 going to happen when something does happen.

3 All the homes have been here for
4 approximately fifty years. Most of the homes
5 have plaster walls and block foundations that are
6 subject to possible severe damage. Many of these
7 homes are actually resting on the same ledge that
8 they are blasting.

9 Also, the trees in the buffer area
10 should remain standing. They will give us some
11 privacy, help to collect some water for the
12 wells, block out the parking lot elimination and
13 also to absorb the noise from the unloading docks
14 which is going to be right behind us. Night and
15 day. Beautiful.

16 Members, please save our wells, save
17 our homes, save our way of life. I'm sure this
18 Board recognizes their responsibility to protect
19 these residents who have made this Town what it
20 is today.

21 Thank you for the opportunity to
22 express the residents concerned.

23 MR. PROFACI: David Barber.

24 UNIDENTIFIED SPEAKER: Excuse me. I'm
25 not David Barber. I would like to say one thing.

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There's a representative from the developer who is sitting at that table and he's been smirking as people have been making passionate comments.

CHAIRMAN EWASUTYN: It's getting late in the evening.

UNIDENTIFIED SPEAKER: I wanted to say that at 8:00.

CHAIRMAN EWASUTYN: It's getting late in the evening.

UNIDENTIFIED SPEAKER: He's doing it now.

MR. BARBER: David Barber, B-A-R-B-E-R. No relation to John or James. It was Maggie who spoke about --

CHAIRMAN EWASUTYN: Can you repeat your name for the record?

MR. BARBER: David Barber, B-A-R-B-E-R. I live at 307 Dupont Avenue, Newburgh. I hear all the news because I'm so pleased that our citizens are actually rallying to the cause. SOS, they deserve an applause. I don't want to point out any activists here who actually made a statement to the Board. To the extent that you serve the constituency we have to admire and

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2 applaud you because you're busy, there's so much
3 going on in this local environment here. That's
4 my main point and I'll make it brief.

5 I don't think our local citizenship can
6 digest what's gone on here in the last ten years.
7 Anybody that's lived here would attest to that.
8 We've got an international airport and one of the
9 pro in support of The Market Place mall made a
10 statement that it's going to be great, we can
11 take our direct flights. We're going to get a
12 lot of upper level pollution and surely get a lot
13 of lower level pollution.

14 We're at the crossroads of the
15 northeast. We need a vision for the future and
16 we're looking at -- you guys are hopefully with
17 us in this regard.

18 We have a Town Board I guess with a
19 town supervisor and four elected officials and
20 then you fellows and ladies are appointed to
21 serve at their discretion if I understand that
22 correctly, and then the Zoning and Planning Board
23 also. So we're just looking for you to be with
24 your citizenship. We're all local here. We have
25 to live in the community. We're raising our

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2 children in the community, we're paying our
3 taxes, we're doing property improvements. That's
4 really my main point. They paved paradise to put
5 up a parking lot. There's a lot to be said for
6 the song here. Thank you.

7 MR. PROFACI: Eric Gordon.

8 MR. GORDON: Eric Gordon from Keane &
9 Beane, P.C. on behalf of the Newburgh Mall. I
10 just want to elaborate on a point of order I had
11 tried to express to the Board before. Three
12 minutes. The applicant/developer had
13 approximately fifteen minutes to make a
14 presentation. Three minutes is basically
15 completely unacceptable.

16 I really appreciate the Board taking
17 the time and devoting the energy to reviewing
18 this project. I know it's a great responsibility
19 that you take on. You have to give -- this is
20 the only time for the public to stand here face
21 to face with all the Members of the Board with
22 the consultants and express their points, their
23 issues. You have to respect that. You have to
24 give the members of the public sufficient time to
25 address this massive project. Three minutes

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2 certainly doesn't do it. I know you've extended
3 that time for many people tonight. In the event
4 you don't get through everybody tonight
5 regardless of that fact, you really need to keep
6 this public process going, give the public time
7 to address the issues in the Environmental Impact
8 Statement, let everybody make a statement.
9 That's why I made the point of order before.

10 The Newburgh Mall -- basically I want
11 to speak tonight just on the responsibilities of
12 the Board in this process. The Newburgh Mall has
13 been operating since 1980 and it's one of the
14 largest taxpayers in the Town of Newburgh.

15 The entrance of the Newburgh Mall sits
16 directly across from the proposed main entrance
17 to The Market Place on 300. Traffic is one of
18 the main issues and impacts from the proposed
19 project. The Newburgh Mall is going to be
20 significantly impacted by this change in traffic,
21 the 2,500 additional cars per hour. What is the
22 Board or what is the applicant going to do in
23 regard to the impacts of the traffic upon the
24 Newburgh Mall?

25 Now, one of the issues regarding this

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2 process and the procedures throughout the
3 application process, I've sent letters to the
4 Board, I've sent letters to the applicant. Based
5 on the responses and some of the comments from
6 the Board over the period, and from the
7 applicant, really we've gotten a sense they don't
8 think the mall has any right or interest to
9 comment on this because it's just another
10 commercial center. It's an inherent right of the
11 mall to be able to make statements and to
12 comment. It's a member of the community, it pays
13 taxes in the community and deserves all the
14 respect of this Board and the applicant
15 throughout this process.

16 The Market Place project in its current
17 configuration is not what is best for the
18 community, yet this Board seems intent upon
19 making sure based on the timetables that have
20 been set and the process that has been set sees
21 an intent on getting it through as quickly as
22 possible. I really hope that's not what the
23 Board is doing, and I'm sure it's not. You have
24 to respect the process.

25 One of the issues that we believe shows

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2 that the process has not been fair here is the
3 issue of access. A number of people have talked
4 about it tonight. I've sent letters to the
5 Board, I've sent letters to the applicant. It's
6 been continually denied. The only thing that it
7 leads me to believe is they don't want
8 consultants, they don't want the public on the
9 property. That's the only conclusion you can
10 reach, otherwise it's not a fair and open
11 process. Now, if the Planning Board does decide
12 to visit the site, which I'm assuming they're
13 going to do, if the consultants visit the site
14 the public should have an opportunity in a
15 reasonable manner to go to the site with the
16 Members of the Board, with the consultants to
17 take their consultants on the site and provide
18 some independent analysis of this project. This
19 is a massive project. The applicant has had
20 significant time to study it. The public should
21 have a right to have their consultants go on the
22 property. Thus far no member of the public has
23 been allowed.

24 In regard to timing, just going through
25 the process, the site plan application was

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1 submitted in June 2004. The public scoping
2 session in regard to SEQRA was held on
3 January 13, 2004. The final scope for the
4 D.E.I.S. was determined on February 10, 2005.
5 Thereafter the applicant took until November 2005
6 to prepare the first draft of the D.E.I.S. It
7 was at a meeting in January 2005 that this Board
8 required certain minor changes to the D.E.I.S.
9 and did not allow comment from the public at that
10 time. Now, the time period thereafter a new EIS
11 was submitted but not until May of 2006. They
12 had as much time as they wanted to make any
13 changes to the D.E.I.S. after they had had almost
14 eight, nine months to prepare it. So the
15 applicant basically from the beginning of the
16 process has had two years to conduct studies,
17 prepare the D.E.I.S. and then revise it. The
18 Board scheduled this meeting for less than
19 thirty days after the D.E.I.S. was first accepted
20 and made available to the public even after its
21 own attorney said it was acceptable to allow at
22 least sixty days under the SEQRA rules. Now, the
23 SEQRA rules are by no means mandatory. Courts
24 have found that, you know, following the precise
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2 mandates of the SEQRA rules is not required and
3 no court has ever held the board to it. The
4 applicant I'm sure, in the interest of allowing
5 the public time to examine it, would allow these
6 time periods or would agree that the time periods
7 should not be held to a mandatory requirement.

8 Now, we're here tonight at this public
9 hearing which is going to close at 10:00.
10 There's no way all the members of the public are
11 going to be allowed to express themselves here.
12 There's got to be another hearing. There has to
13 be sufficient time for public comment. It's
14 simply unfair and inappropriate. We request that
15 another public hearing be scheduled and
16 additional time be allowed for the public comment
17 period.

18 In regard to planning issues, as I said
19 before we're going to wind up -- if we allow this
20 much retail space what are we going to wind up
21 with in a few years? There will be vacant space
22 at the Newburgh Mall, there may be vacant space
23 at The Market Place. This is just not the
24 appropriate project for the community at this
25 time.

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2 CHAIRMAN EWASUTYN: Mr. Gordon --
3 MR. GORDON: I'll wrap up. Thank you.
4 In closing, the intent behind SEQRA is to ensure
5 that agencies such as this Board "conduct their
6 affairs with an awareness that they are stewards
7 of the air, water, land and living resources and
8 that they have an obligation to protect the
9 environment for the use and enjoyment of this and
10 all future generations." That's a quote from
11 SEQRA. Here it is the Planning Board's
12 obligation to protect the environment for the
13 future generations of this community and to act
14 as stewards to protect natural resources. I
15 sincerely hope -- the Newburgh Mall sincerely
16 hopes the Board will look at this closely, give
17 it the appropriate scrutiny it requires and take
18 appropriate steps to reduce the size of the
19 project. Thank you.
20 MR. PROFACI: Brian Pace.
21 UNIDENTIFIED SPEAKER: Not here.
22 MR. PROFACI: Michael Glassman.
23 UNIDENTIFIED SPEAKER: Not here.
24 MR. PROFACI: Not here. Richard
25 Maserjian.

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MR. MASERJIAN: My name is Richard Maserjian, I live at 27 Wintergreen Avenue. I have been there for thirty-three years. My last name is spelled M-A-S-E-R-J-I-A-N.

I'm very much in favor of this Market Place mall. The developers have promised to help fix Winona Lake and they are going to make modifications to the traffic intersections to alleviate the traffic problem.

There are many tax benefits and employment opportunities. It's about time that Newburgh has had a decent mall. I'm tired of having to drive to Poughkeepsie or Middletown to go shopping. Thank you.

MR. PROFACI: Frank Carbone.

MR. CARBONE: Thank you. Good evening. My name is Frank Carbone Junior, I live at 39 Wintergreen Avenue, Town of Newburgh for many, many years.

I'm concerned, tonight I think I only saw one Town Board member present here tonight. Actually, it was the town clerk. I don't see any other members of the Town Board here. So tell me they don't want to hear the people.

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2 A public servant's oath of office
3 always contains the following words, "To protect
4 and serve the people" of the region that he or
5 she has been elected to serve. They didn't take
6 that oath of office to protect unknown and future
7 big bucks business operatives, carpet baggers and
8 snake oil salesmen from someplace else.
9 One thing that makes a big difference
10 in anything is that little thing called a dollar
11 sign. That little symbol. Campaign contributions
12 are many times the type of influences that
13 pervade the not-so-secret world of corrupt
14 political American Government operative. It's no
15 big secret, we see it every day in print in the
16 printed news, CNN, Fox and others. Most
17 intelligent free thinking folks perceive that
18 certain operatives within the Town of Newburgh
19 government and others are attempting to cram as
20 much development and people as possible into the
21 Town of Newburgh boundaries with little regard
22 for future consequences. You'll hear excuses
23 like we need the ratables, as if the additional
24 ratables will keep the taxes in check. If that
25 was true than places like New York City and other

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2 densely populated and developed areas would be
3 the most cost effective places in the world to
4 live, for example Westchester and Rockland
5 Counties, Manhattan and others. After all is
6 said and done the elected public servant will get
7 what they want. They might get voted out of
8 office, they might not run again or they might
9 even be rewarded by running for and being elected
10 to an even higher office with a higher salary
11 with perks.

12 The Town of Newburgh already has big
13 growing pains. That is traffic problems, high
14 taxes, crime, additional people with lung
15 conditions and other illnesses. Perhaps the
16 public servant will not appreciate this until he
17 experiences this personally when he can't breathe
18 or has difficulty breathing.

19 So what do your public servants do?
20 Continue to approve and encourage massive
21 development that will turn the Town of Newburgh
22 into another densely populated, overdeveloped and
23 out-of-control region of New York State and a
24 suburb of New York City with all of its ills and
25 ill being. The Town of Newburgh elected

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2 officials and other not-here-tonight responsible
3 officials have the chance to do something about
4 overdevelopment and poor air quality now, and
5 perhaps they won't until it's too late. Time
6 will tell.

7 This project and others is entirely too
8 much for the Town of Newburgh to manage. I'll
9 cite one Orange County example as others have
10 tonight, the Woodbury Commons project in southern
11 Orange County. The citizens of the Town of
12 Newburgh don't want to harbor another Woodbury
13 Commons fiasco in this Town. Let's make sure we
14 let the Town Government operatives know all of
15 our concerns and hope that they're listening and
16 will make the right decisions for the future and
17 health of the citizens of the Town of Newburgh.

18 My special message to those in power
19 who will be making important decisions: Do no
20 irreversible harm to the citizens of the Town of
21 Newburgh and to our sensitive environment.
22 Protect and serve like you took the oath to do.

23 Thank you for listening. I want to
24 mention that, and I think somebody else mentioned
25 it too, what are the total impacts, the total

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2 negative impacts of all of this development going
3 on in this region? It seems like there's a lot
4 of projects going on. There's probably projects
5 going on in other towns that we don't know about.
6 Who is going to put all this together?

7 There was one other gentleman who
8 mentioned that most people who look at this in a
9 positive light are kind of reluctant to speak. I
10 think it also holds true on the other side.

11 CHAIRMAN EWASUTYN: Sir, I would like
12 to --

13 MR. MASERJIAN: Just a few seconds,
14 please. Thank you. PS: I have concerns for
15 downstream Quassaic Creek water temperatures
16 increasing as a result of high temperature runoff
17 from the 70 acres of blacktop on the project.

18 Anyway, thank you and let's be able to
19 talk to our Town Government.

20 MR. PROFACI: This will be our last
21 speaker for tonight. Nat Parish.

22 MR. PARISH: Mr. Chairman, Members of
23 the Board, my name is Nat Parish, I am a
24 consultant to the Newburgh Mall. I have some
25 thirty-five or more years of professional

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2 experience in the development of environmental
3 impact statements, plans, reviewing those plans
4 for public agencies and reviewing them in terms
5 of what are the costs and benefits to any
6 segment, either the developers, boards,
7 et cetera.

8 Much has been said here tonight about
9 the economic benefits. I hadn't mentioned -- I
10 hadn't meant to focus on it but I think I need
11 to. What has been presented, and I think your
12 Board has an open mind, certainly you want to
13 really consider this in its totality. You must
14 consider the economic benefits to the Town. What
15 people have said certainly needs to be considered
16 against the economic impacts. The law says that.
17 I'm sure your attorney will tell you that it's a
18 balance in the end that you have to look at.
19 Also by the way, you don't have to look at that
20 plan, you can look at a whole bunch of alternate
21 plans. I'll get to that.

22 What's been presented in terms of the
23 benefits are what are at best an estimate of the
24 gross numbers. In other words, they say okay,
25 there's going to be additional sales tax revenues

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2 of some \$38,000,000 that are going to go into the
3 State and County and some of that is going to be
4 left to the County, so on. That's not the total
5 picture. Obviously a million square foot mall
6 isn't going to come here and be all new business.
7 You can't believe that. You shouldn't believe
8 it. It doesn't make any sense to say it's all
9 new business. What's it going to do? It's going
10 to take away from, yes, the sales revenues of
11 other malls. Certainly. That means they'll be
12 paying less sales tax to the County and the
13 State, and so the net is not \$37,000,000, it's a
14 much, much smaller number. How much of that
15 comes back to the Town of Newburgh? Well, you
16 don't have any guarantees any comes back to the
17 Town of Newburgh. At the moment there is a tax
18 shift, a revenue sharing agreement whereby the
19 County takes some of the sales taxes it gets and
20 distributes it to the County all around. For
21 those of you who don't understand, that's not
22 based on what the performance will be of this
23 project but rather the total amount of money that
24 comes into the County. Everybody takes a portion
25 of that and gives it to everybody. There's

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2 somebody in Port Jervis that gives some money to
3 Wallkill. It goes back to everybody. You're
4 going to get a certain percentage of it, whatever
5 it is and whatever is politically determined by
6 the County Legislature. That could change at any
7 given point in time. There's no guarantee.
8 You're not getting really guaranteed one penny
9 of additional sales tax, and certainly that which
10 you would get or your portion of something the
11 County would get is highly problematic. There's
12 been no discounting of that in this analysis.
13 Similarly, somebody said \$8,000,000 in
14 property tax. That's a total error because the
15 report itself doesn't claim \$8,000,000. What it
16 says is that the Town of Newburgh, its general
17 fund and highway fund will get an additional
18 property tax revenue of \$271,000. That's a lot
19 less. That is again a gross number. Why?
20 Because if this comes in and there are vacancies
21 in other places, what are those property owners
22 going to do? They are going to come in for
23 serchiary because they have vacancies or they
24 have to lower their store rents. That's not a
25 theory, that's what happens. If you go today in

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2 Nassau County where there's been a lot of malls
3 that have gone out and big vacancies and so on,
4 one of the law firms which is doing the most
5 business is the one handling serchiary for
6 property owners. I think that's what you have to
7 envision in terms of the gross or the net. Yes,
8 this mall will bring in some more property tax
9 revenues to the school district, more than to the
10 Town certainly, and I agree there's about
11 \$1,900,000 that's been estimated school tax. I
12 don't know if that's correct but that's what's
13 claimed. That's a gross number. You have to go
14 to the net number. I will elaborate more on that.

15 Hopefully you're going to have another
16 meeting. You have to. I have been a
17 consultant --

18 CHAIRMAN EWASUTYN: Mr. Parish, I'm
19 going to allow you two more minutes to close.

20 MR. PARISH: Well, I'm going to take
21 two more minutes but I will say that I have been
22 a consultant for probably over a hundred
23 development projects, EISs and so on. Never has
24 a project of this size had just one public
25 hearing. All of them, I've had some that have

THE MARKET PLACE

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2 had six, seven, eight. I'm sure Tim Miller will
3 verify that most projects of this size have more
4 than one public hearing. So that's needed
5 because your Board, really I think -- I respect
6 your Board. I know your consultant. You have an
7 excellent consulting team. You want to learn.
8 You want to get other facts that other people
9 have looked at so that you can put them all
10 together as you move forward, and you can't do
11 that by limiting time, especially many of the
12 people here are experts, and I consider myself
13 one.

14 Now quickly, everybody talks about
15 traffic. I want to tell you there's a big error
16 in the traffic thing. What have they done.
17 They've taken an ITE Institute of Transportation
18 table, taken it off and said hey, we're going to
19 discount that by twenty-five percent because the
20 so-called pass-by trips. That's wrong. You can
21 take a pass-by trip -- that means somebody that
22 ordinarily would be on that highway anyhow so
23 it's not an extra trip. A twenty-five percent
24 reduction is an awful lot of reduction, and if
25 you had one store that --

THE MARKET PLACE

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CHAIRMAN EWASUTYN: I'm bound by our agreement with the school to close the meeting at 10:00.

MR. PARISH: Can I start the next meeting?

CHAIRMAN EWASUTYN: I would like to at this point ask you to hold from your comments because I'm getting to that point that I am bound by insurance.

MR. PARISH: I appreciate that.

CHAIRMAN EWASUTYN: I am bound by insurance. Everything is in place. Again, talking about agreeing with everyone and working with the public, working with the school, so we have to --

MR. PARISH: Thank you, Mr. Chairman. Could I ask you please permission to start the next meeting getting the full time?

CHAIRMAN EWASUTYN: Yes.

MR. PARISH: Thank you.

CHAIRMAN EWASUTYN: To follow the request of Mr. Parish and having heard from the public at this time, I think it would be appropriate that this Board would consider

THE MARKET PLACE

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2 continuing this public hearing until the 29th of
3 June at 7:00 at which time I will allow Mr.
4 Parish -- again we'll be working with the same
5 allotted timeframe, Mr. Parish. We won't be
6 changing that. I think Mr. Profaci has a list.
7 Mr. Parish has completed his statement, we'll
8 continue with the list that we have before us.
9 We will have a sign-in table as we did this
10 evening.

11 Before I turn it over to final comments
12 from Mike Donnelly, our Planning Board Attorney,
13 at this point I would move for a motion from the
14 Board to continue the public hearing to June 29th
15 at 7:00 in the evening. I would move for that
16 motion.

17 MR. PROFACI: So moved.

18 MR. MENNERICH: Second.

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

22 MR. PROFACI: Same location?

23 CHAIRMAN EWASUTYN: Correct. It will
24 be at the same location.

25 I'll have Mr. Donnelly make a statement

THE MARKET PLACE

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in reference to mailings.

Again, I have a motion on the table.
I'll ask for a roll call vote starting with
Frank.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself. Motion
carried.

Mike, would you --

MR. DONNELLY: Two other matters
quickly. I have spoken to the applicant already.
I asked a new mailing to the same list be sent of
the new date, time and place. I have been told
that's agreeable.

Number two, if the hearing is now
continued to June 29th, the written comment
period will extend to forty-five days beyond that
date. That will be the last date by which
written comment will be received.

CHAIRMAN EWASUTYN: I would like to

THE MARKET PLACE

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2 thank everyone for attending. Please be careful
3 in leaving this evening.
4 UNIDENTIFIED SPEAKER: The public
5 hearing notice says thirty days.
6 MR. DONNELLY: I'm sorry, thirty days
7 from the close of the hearing.
8 CHAIRMAN EWASUTYN: Yes.
9 Mike, do you want to make that
10 statement?
11 MR. DONNELLY: I'm sorry. I stand
12 corrected. The written comment period is
13 thirty days after the close of the hearing as
14 stated in the public hearing notice.
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16 (Time noted: 10:00 p.m.)
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CERTIFICATION

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: June 14, 2006

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STATE OF NEW YORK : COUNTY OF ORANGE VOL. II
TOWN OF NEWBURGH PLANNING BOARD Pages 138-259

----- X

In the Matter of

THE MARKET PLACE
(2005-39)

Route 300

Section 60; Block 3; Lots 49.22,49.1,41.3,48,41.4 & 49.21

Section 71; Block 4; Lots 7,8,9,10,11,12 & 13

Section 71; Block 5; Lots 9,15 & 16

Section 97; Block 1; Lot 20.3

IB Zone

----- X

CONTINUED PUBLIC HEARING

Date: June 29, 2006

Time: 7:00 p.m.

Place: Meadow Hill School

124 Meadow Hill Road

Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- FRANK S. GALLI
- KENNETH MENNERICH
- EDWARD T. O'DONNELL, JR.
- J. LEO GLYNN

- ALSO PRESENT: NORMA A. JACOBSEN
- MICHAEL H. DONNELLY, ESQ.
- PATRICK HINES
- BRYANT COCKS
- KAREN ARENT

KEN WERSTED

21

22 APPLICANT'S REPRESENTATIVE: ROBERT WILDER

23 ----- X

MICHELLE L. CONERO

24

72 River Glen Road

Walkkill, New York 12589

25

(845)895-3018

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CHAIRMAN EWASUTYN: Good evening,

3

ladies and gentlemen. I'd like to welcome you to

4

the Town of Newburgh Planning Board meeting of

5

the 29th of June.

6

I'll ask for a roll call.

7

MR. GALLI: Present.

8

MR. MENNERICH: Present.

9

MR. O'DONNELL: Present.

10

MR. GLYNN: Present.

11

CHAIRMAN EWASUTYN: And myself present.

12

The Planning Board is represented by a

13

group of consultants that make recommendations to

14

the Planning Board. If they could introduce

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themselves.

16 MR. DONNELLY: Michael Donnelly,
17 Planning Board Attorney.

18 MR. HINES: Pat Hines with McGoey,
19 Hauser & Edsall, Consulting Engineers.

20 MR. COCKS: Bryant Cocks, Planner,
21 Garling Associates.

22 MS. ARENT: Karen Arent, Landscape
23 Architectural Consultant.

24 MS. CONERO: Michelle Conero, Court
25 Stenographer.

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2 MR. WERSTED: Ken Wersted, Creighton,
3 Manning, Traffic Consultant.

4 MS. JACOBSEN: Norma Jacobsen,
5 Secretary to the Planning Board.

6 CHAIRMAN EWASUTYN: At this point I'd
7 like to turn the meeting over to Leo Glynn.

8 MR. GLYNN: Ladies and gentlemen, the
9 Board invites you to stand and pledge allegiance
10 to our flag.

11 (Pledge of Allegiance.)

12 MR. GLYNN: Thank you. Would you
13 please turn off all electronic communication
14 devices.

15 CHAIRMAN EWASUTYN: At this time I'm
16 going to ask Mr. Mennerich to read the notice of
17 hearing.

18 MR. MENNERICH: "Town of Newburgh
19 Planning Board, notice of change of meeting
20 location, notice of continued public hearing for
21 June 29, 2006, notice of site plan and SEQRA
22 D.E.I.S. public hearing continued. Notice is
23 hereby given --

24 UNIDENTIFIED SPEAKER: We can't hear
25 you.

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2 MR. MENNERICH: "Notice is hereby given
3 that the Planning Board of the Town of Newburgh
4 has changed the location of its meeting scheduled
5 for June 29, 2006 to the auditorium of the Meadow

6 Hill School, Meadow Hill Road, Newburgh, New York
7 at 7:00 p.m. Notice is further given that on the
8 aforesaid time, date and place the Planning Board
9 will continue to hold a public hearing pursuant
10 to Section 185-57 K of the Zoning Law of the Town
11 of Newburgh, Section 274-A of the Town Law of the
12 State of New York, and Section 617.9(a)(4) of the
13 SEQRA regulations 6 NYCRR upon the application of
14 Wilder, Balter Partners, Incorporated for the
15 approval of a site plan as described below. The
16 continued public hearing will address both the
17 site plan proposal as well as the Draft
18 Environmental Impact Statement on file with the
19 Town. The D.E.I.S. is available for public
20 examination at the Town Hall. The D.E.I.S. is
21 also posted on the Internet at
22 [http://www.TIMMILLERASSOCIATES.com/public review/
23 marketplace/index.html](http://www.TIMMILLERASSOCIATES.com/public%20review/marketplace/index.html). All persons will be
24 heard by the Planning Board at the public hearing
25 to be held as aforesaid. The Town of Newburgh

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2 will make every effort to ensure that the hearing
3 is accessible to persons with disabilities.
4 Anyone requiring special assistance and/or
5 reasonable accommodations should contact the town
6 clerk. Name of project: The Market Place.
7 Description of action: The applicant proposes
8 the construction of a commercial shopping center
9 consisting of approximately 850,000 square feet
10 on 127.6 acres of vacant land within the
11 Interchange Business, IB, zone district opposite
12 and east of the Newburgh Mall. The site extends
13 to Route 52 to the east, along Route I-84 and to
14 Route 52 at Meadow Road to the north. The
15 project is proposed to be serviced by municipal
16 sewer and water. The project is located on Route
17 300 in the Town of Newburgh, designated on town
18 tax map as Section 60; Block 3; Lots 41.3, 41.4,
19 48, 49.1 and 49.22; Section 71; Block 4; Lots 8,
20 9, 10, 11, 12, 13 and 14; Section 71; Block 5;
21 Lots 9, 15 and 16; and Section 97; Block 1; Lots
22 13.3 and 20.3. Project location: Route 300 at

23 I-84 to New York State Route 52 at I-84, Town of
24 Newburgh, County of Orange. The Planning Board
25 will accept comments from all interested members

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2 of the public concerning both the proposed site
3 plan and the Draft Environmental Impact
4 Statement. The public hearing may be closed or
5 continued at the Planning Board's discretion.
6 Written comments regarding the D.E.I.S. will be
7 received until thirty days after the close of the
8 public hearing. Dated June 1, 2006. Newburgh,
9 New York. By order of the Planning Board of the
10 Town of Newburgh, Town of Newburgh, New York. By
11 John P. Ewasutyn, Chairman."

12 MS. JACOBSEN: Mr. Chairman, the notice
13 of hearing was printed in The Sentinel on
14 June 13, 2006. The notice was also printed in
15 The Mid-Hudson Times on June 14, 2006. The
16 applicant's representative sent out 110
17 registered letters. 78 signed receipts were

18 returned and 1 notice was undeliverable. Thank
19 you.

20 CHAIRMAN EWASUTYN: At this time I'm
21 going to ask Mike Donnelly, the Planning Board
22 Attorney, to discuss the format of tonight's
23 meeting.

24 Mike.

25 MR. DONNELLY: Good evening. As many

1 144

2 of you know, this is a continued public hearing.
3 The hearing first began on June 1st of this year.
4 The purpose of the hearing is to hear your
5 comments regarding both the site plan as well as
6 the Environmental Impact Statement that is on
7 file in the Town Hall and also available on-line.

8 We are going to continue with the same
9 format and ground rules as we utilized when the
10 hearing began in the beginning of the month.
11 Those rules are as follows: If you wish to speak
12 at the hearing you need to sign in at the table

13 in the rear of the room. When you are recognized
14 by the Chairman to speak, we would ask you to
15 come forward and state your name and your address
16 for the record. We'd ask you if your name has an
17 unusual spelling to please spell it for our
18 Stenographer so that it can be correctly reported
19 in the transcript. We will limit the time of
20 each speaker generally to three minutes. There
21 has been a request that we allow, which we did
22 not the first time, for one to assign his or her
23 time to another speaker. We're not inclined to
24 follow that request for this reason: The reason
25 for the time limitation is to give an opportunity

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2 to as many people as possible to address the
3 Board and bring their concerns forward. We were
4 not able to even complete the list of those who
5 wanted to speak in the first hearing, and we're
6 going to continue with that list as we move
7 forward tonight. If there is time remaining

8 after those on the list who had spoken once and
9 wish to speak again to be heard, we will give
10 them an opportunity to be heard further.

11 Next, if you come forward and you are
12 reading from something, if it is at all possible
13 could you leave a copy of what you read from with
14 our Stenographer. Generally speaking, when
15 people read from a document they begin to speed
16 up and they have their head down and they don't
17 always speak as clearly as they might, and in
18 going fast in that fashion the Stenographer might
19 not be able to get everything accurately. If you
20 read from a document and you're able to leave us
21 a copy, we would ask you to please do so.

22 For those who wish to say more when the
23 hearing has closed, I wish to remind you that the
24 written public comment period will remain open
25 for thirty days following the close of the

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2 hearing. In that time period as provided in the

3 notice, you can deliver written comments to the
4 Board. They can be in any degree of formality
5 you wish and any length that you wish to deliver
6 to us. Thank you.

7 CHAIRMAN EWASUTYN: Our last speaker on
8 the 1st of June was Nat Parish. I'll introduce
9 Nat.

10 MR. PARISH: Mr. Chairman, it's
11 difficult to read here.

12 UNIDENTIFIED SPEAKER: Can we have some
13 light?

14 MR. PARISH: Can we have a little bit
15 of light?

16 CHAIRMAN EWASUTYN: We're leaving the
17 lights off for the temperature. I can turn the
18 lights on. It's going to increase the heat in
19 the room. I'll turn the light on.

20 MR. PARISH: Mr. Chairman, Members of
21 the Board, thank you. Again for the record, I'm
22 Nat Parish, I'm here tonight as a planning,
23 traffic, environmental consultant to the owners
24 of the Newburgh Mall. I am a Licensed
25 Professional Engineer in the State of New York.

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2 UNIDENTIFIED SPEAKER: We can't hear
3 him. You need a mike.

4 MR. PARISH: Sorry for all the
5 interruptions. I'm here tonight again as a
6 consultant to the Newburgh Mall. I will try as
7 much as possible to stick to the three-minute
8 ground rule. It is impossible to get all the
9 points I want to get across tonight in that. We
10 will be submitting technical comments.

11 When I was last here, just before I
12 finished I had talked about the robbing Peter to
13 pay Paul economic analysis that constitutes the
14 tax implications of this project. I won't repeat
15 them, it's in the record, but I will just
16 emphasize again that the best case scenario taxes
17 have been projected. What they don't account for
18 at all is all the taxes that will be lost because
19 of businesses -- when businesses take away from
20 other businesses you're going to lose business.

21 It's just moving the money around and the net
22 gain will be nowhere near what's projected in
23 there. The net gain of \$270,000 a year to the
24 Town, the maximum, isn't so wonderful anyhow.
25 Not in terms of the impacts of this project.

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2 I want to emphasize tonight and talk
3 about traffic because I think that's one of the
4 certainly single major issues if we had to
5 highlight a few. It's very, very important for
6 the Board to fully consider it because a million
7 square foot mall clearly has huge traffic
8 implications. We've reviewed them and there are
9 a lot of technical details. We're going to give
10 you a report on all of those. I would like to
11 highlight the ones that are important just
12 because they're easier to explain.

13 First of all, the one major deficiency
14 is that in the analysis there's a mention that
15 there are six proposed projects, other projects,

16 that will be built, and they're truthfully
17 listed. Your Board said to the clients take them
18 into account. The traffic from those other six
19 projects when you look at the calculations of the
20 build and no build scenario does not include the
21 traffic for those. When you really add those in
22 you're going to find that some of the conclusions
23 as to the level of service which seem to be
24 marginally okay, just manage to squeak by, isn't
25 going to squeak by any more and you're going to

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2 go to level of service F, which of course is a
3 failing grade. You're going to find that on a
4 number of movements.

5 There's a second deficiency which adds
6 to that. The applicant -- the traffic analysis
7 took a so-called pass-by credit of 25 percent.
8 That's the maximum you can take in terms of the
9 Institute of Transportation trip generation
10 handbook. Actually, when you look carefully at

11 the basis for that, there's no basis for taking
12 that full 25 percent, and they took it. So they
13 reduced traffic by 25 percent and there was no
14 basis for that reduction. When you add that
15 traffic back in to the traffic I originally
16 mentioned, you're going to find again that those
17 intersection movements start to breakdown.

18 Then we have the next problem is the --
19 there's a signalization as one of the
20 mitigations. It's very important, certainly to
21 my clients and to the whole movement along Route
22 300, is the signalization proposed at the
23 Newburgh Mall's south driveway where it
24 intersects with this driveway. The signalization
25 that they've proposed does not comply with New

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2 York State Department of Transportation operation
3 standards. So they proposed a signalization
4 concept that isn't going to work. They have a
5 permissive left turn -- two-lane left turns

6 against opposing through traffic. I think it
7 doesn't --

8 CHAIRMAN EWASUTYN: I'm going to ask
9 you to summarize in two minutes, please.

10 MR. PARISH: Already? That fast? All
11 right. One more -- how much more do I have?

12 CHAIRMAN EWASUTYN: Two minutes.

13 MR. PARISH: Okay. At the intersection
14 of 300 and 52 the capacity analysis assumes a
15 separate right-turn lane. That doesn't exist.
16 It also assumes eastbound and westbound green
17 arrow signal phases. They don't exist. Now,
18 when you take all of those into account you're
19 going to start to find that the various levels of
20 service that were projected don't work.

21 There's also another interesting
22 discussion about what will happen in the holiday
23 season, the peak -- as you all know, shopping
24 centers do a peak business between Thanksgiving
25 and Christmas. That's a long period for the

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2 community to have to suffer through congestion.
3 What the report says, and I'm going to quote the
4 report itself on page 3.6-28, it says that
5 "intersections will experience longer peak hour
6 delays and the traffic management program will
7 have to be implemented to accommodate the
8 expected future traffic generation volumes during
9 these time periods." Now, I hope you all heard
10 that. That's not me, that's the applicant's
11 application.

12 CHAIRMAN EWASUTYN: We're getting
13 close.

14 MR. PARISH: I'm sorry?

15 CHAIRMAN EWASUTYN: We're getting close
16 to the end now.

17 MR. PARISH: Okay. I have 15 seconds
18 more. The traffic doesn't work during Christmas.
19 They say we're going to have a traffic management
20 program but they haven't proposed what it is.
21 Certainly I don't think they're going to propose
22 closing fifty percent of the stores to reduce

23 traffic during that time. I think your Board has
24 to require them to propose a plan that will
25 address the very problems that they themselves

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2 have cited.

3 Just to summarize, I haven't even begun
4 to talk about all of the other technical
5 deficiencies which in their aggregate will render
6 the traffic analysis totally deficient, and
7 merely in and of itself it requires at least a
8 supplementary D.E.I.S. and another public hearing
9 at which time a traffic report is presented and
10 analyzed which isn't deficient and which truly
11 represents the best possible projection of the
12 conditions that are going to exist.

13 Mr. Chairman, thank you. I have much
14 more to say. At the end of the meeting if I have
15 a chance I'd like to talk.

16 CHAIRMAN EWASUTYN: Thank you.

17 MR. O'DONNELL: We still have about

18 twenty speakers from June 1st. The first one
19 here is Bob Porco, if he's here.

20 (No response.)

21 MR. O'DONNELL: If not, the next is
22 Ross Topliff.

23 MR. TOPLIFF: Mr. Planning Board
24 Chairman, Members of the Planning Board and
25 guests, my name is Ross Topliff, T-O-P-L-I-F-F.

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2 I've lived at 30 Algonquin Drive here in Newburgh
3 for over 23 years and in this area for almost
4 30 years. I'm a practicing chemical engineer and
5 as such I recognize that some commercial
6 development is necessary to balance the drain on
7 resources that are required by residential
8 development. However, I'm opposed to The Market
9 Place in Newburgh in its current scope. I
10 believe that it's much too large for this area.

11 I would wish to address two specific
12 issues in connection with that, one is the

13 wetlands and the second is the emergency
14 response. As most all of you know, wetlands must
15 be 12 1/2 acres or greater to be protected under
16 the Federal and State Wetlands Protection Act.
17 The longest wetlands in the proposed development,
18 which is that in the area of Meadow Avenue and
19 Route 52, is 9.7 acres. So it's slightly less
20 than what would automatically come under the
21 protection of the existing law. You may also be
22 aware that the New York State Assembly has
23 repeatedly passed a bill that would reduce the
24 size of protected wetlands to 1 acre or more.
25 Unfortunately that law has been stymied each time

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2 by the leadership of the State Senate despite the
3 support to pass that bill.

4 The D.E.I.S. Other speakers you've
5 heard, both pro and con, have spoken about the
6 many types of wildlife, plants and so forth in
7 these wetlands, though their speakers added their

8 own observations to other wildlife that they
9 believe are there. The wetlands provide a
10 valuable function in flood control for stormwater
11 runoff. Part of the wetlands regulations that
12 many people may not be aware of is there's a
13 provision in both the State and Federal law that
14 allows for smaller areas to be protected that are
15 "of unusual local importance." That's from both
16 the State and Federal law. Based on the
17 information that I have found through my
18 searches, I believe that these wetlands can be
19 protected under that provision. Based upon the
20 evidence that we have before us, I believe that
21 these wetlands should be protected under that
22 provision.

23 My second concern is for the emergency
24 response services in that area of Town,
25 specifically the Winona Lake Engine Company 2 and

3 The D.E.I.S. and some who spoke here at the last
4 meeting mentioned some of the provisions that
5 have been made to ease the response of the
6 emergency apparatus from the station to the scene
7 regardless of where that location may be.
8 However, they neglected to make any provision for
9 the fact that the members, all of the members of
10 both of these organizations, are one hundred
11 percent volunteer. The emergency apparatus
12 cannot respond from the station to the scene
13 wherever it might be until its members negotiate
14 traffic to get to the stations. I'm a former
15 ten-year member of the Winona Lake Engine Company
16 2. Four of those years I was an officer, a
17 firematic officer of the company. I have seen
18 from personal experience that the late response
19 of an apparatus to an incident can be caused by
20 heavy traffic.

21 The increased traffic mentioned
22 specifically in the D.E.I.S. is a thirty percent
23 increase in traffic along Route 52. It goes in
24 front of both Winona Lake Engine Company 2 and
25 Town of Newburgh Volunteer Ambulance Corp. A

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thirty percent increase. That's a huge amount.

CHAIRMAN EWASUTYN: Ross, I'm going to say you have a few minutes left until the closing point.

MR. TOPLIFF: Sure. This increased traffic will inevitably lead to delays in members arriving at both of those stations. The delayed response will result in increased damage from fire incidents. It can mean the difference between life and death for an emergency medical situation. Increased development, whether residential or commercial, leads to increased calls for assistance. The Winona Lake number of calls has gone from about four per week to an average of one per day or more. That not only stresses the equipment but stresses the members, and I'm sure you're all well aware that the number of members available to service their volunteer organizations is decreasing. As the

21 Town of Newburgh continues to grow with fewer
22 people able to volunteer their time, the day may
23 not be too distant when paid firefighters might
24 be necessary. What a huge financial burden that
25 would entail.

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2 In summary, I recognize that this
3 Planning Board is working hard to look out for
4 the best interest of our Town. I want to make
5 sure that these two concerns are duly raised and
6 duly considered, the wetlands in the area of The
7 Market Place development, particularly along
8 Route 52 and Meadow Avenue can and should be
9 protected under the unusual local importance
10 clause in both the New York State and the Federal
11 Wetlands regulations. The development along with
12 others in Town will increase the stress on our
13 volunteer medical responders and firefighters.
14 The significant increased traffic along Route 52
15 will cause increased delays in members traveling

16 to the station to respond to calls for
17 assistance.

18 CHAIRMAN EWASUTYN: Thank you, Ross.

19 MR. TOPLIFF: Thank you.

20 MR. O'DONNELL: Our next speaker is
21 Carolyn Topliff.

22 MS. TOPLIFF: My name is Carolyn
23 Topliff, T-O-P-L-I-F-F. Mr. Planning Board
24 Chairman and Members of the Planning Board and
25 guests, I reside at 30 Algonquin Drive in the

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2 Town of Newburgh where I've lived for the past
3 23 years. I am opposed to The Market Place mall.
4 I have watched the vast amounts of development
5 take place in this Town. This is the first time
6 I've spoken out in opposition. I'm extremely
7 concerned about many, many issues regarding The
8 Market Place mall.

9 I'm going to focus on one aspect of the
10 environmental impact, the mass destruction of the

11 trees and significant negative impact that will
12 have on our air quality. Trees act as natural
13 air filters. Plants and trees may be the best
14 means of improving outdoor air quality. They are
15 capable of removing gaseous and particulate
16 pollutants from the air, reduce energy
17 expenditures, lower air temperatures and make our
18 community a more attractive and healthier place
19 to live. According to the Virginia Cooperative
20 Extension at the Virginia College Institute and
21 State University, one tree releases about
22 100 gallons of water into the air each day. One
23 tree absorbs the carbon dioxide for 50 cars
24 driven for twelve hours. Therefore, removing
25 100 acres of trees eliminates 5,000 vehicles

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2 worth of carbon dioxide removal. Putting this
3 another way, removing these 100 acres of trees
4 removes the purification capacity for 60,000
5 hours of vehicle operation.

6 As most of us know, according to the
7 recent air quality report issued by the American
8 Lung Association, Orange County has received a
9 failing grade once again based on high ozone
10 levels from car emissions. The Market Place mall
11 ensures even more traffic in addition to removing
12 the air purification resulting from the loss of
13 these trees.

14 I've witnessed the raping of the land
15 of valuable and beneficial trees in the name of
16 development. I'm concerned about the impact this
17 will have on our future generation. Trees and
18 dirt absorb heat. Blacktop and buildings radiate
19 heat back into the air raising ambient
20 temperatures. This will further worsen air
21 pollution levels, especially ozone.

22 I pose this question for the Planning
23 Board and developers. What will be the impact on
24 air pollutant levels in this busy, congested area
25 as resolved to removing over 100 acres of trees

1
2 in addition to the increased 2,500 cars per hour
3 and added emissions from the buildings? The
4 D.E.I.S. states there will be no negative impact
5 to air quality as a result of this development.
6 The facts I present show that this statement
7 cannot be true.

8 If we don't give some serious thought
9 to the negative impacts of this mall on our
10 community before it's too late, then who will?
11 If not, when? Thank you.

12 MR. O'DONNELL: Our next speaker is
13 Gary Warden.

14 (No response.)

15 MR. O'DONNELL: How about Bob
16 Leaderman?

17 MR. LEIBMANN: L-E-I-B-M-A-N-N?

18 MR. O'DONNELL: Yes. Sorry.

19 MR. LEIBMANN: My name is Bob Leibmann,
20 203 Valley Avenue, Newburgh, New York. I have
21 been a resident of Orange Lake for the last
22 thirty years. I've seen the traffic up and down

23 Rock Cut Road. There was a big development that
24 was going to take place there several years ago.

25 Just to tell you, the traffic experts

1 161

2 gave some kind of wonderful picture of what was
3 going to happen, very little traffic. My house
4 is right off Rock Cut Road. I took my car out
5 there and sat in the car and counted cars. It
6 was four times what the traffic consultant
7 indicated. I don't know why anything else should
8 be different this time.

9 Just as a side remark, several years
10 ago I had reason to speak to the Army Corp. of
11 Engineers. They said by invitation they would
12 come to any area that has wetlands and give their
13 recommendations. I would like to know whether
14 the Planning Board has invited them or have the
15 people from Market Place invited them to give
16 their expertise? I don't think so.

17 I'm not going to bore you with the same

18 kind of information that everybody else has. Not
19 that it's inaccurate but I won't talk about
20 traffic, I won't talk about the environment. I'm
21 going to tell you what my wife and I expect to
22 do. We expect to close two bank accounts on
23 Union Avenue, take our business -- I like the
24 Newburgh Mall but it's going to be awful to get
25 in there as well. I'm going to take my business

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2 to Wallkill, I'll take my -- do my food shopping
3 at the Thruway Market and stay the hell away from
4 The Market Place because anybody with an ounce of
5 brains knows that it's going to be insanity.

6 Thank you.

7 MR. O'DONNELL: Jeffrey Parker.

8 (No response.)

9 MR. O'DONNELL: Shirley Davis.

10 MS. DAVIS: My name is Shirley
11 Hoag-Davis, I live at 358 Gardnertown Road. I've
12 lived in the Town since I was married in 1957.

13 That's a pretty long time. I'm getting kind of
14 old.

15 At the last meeting I was a hundred
16 percent for The Market Place. Since the meeting
17 I have concerns. I may be one of the few people
18 here that are on both sides of the fence. I've
19 experienced for twenty-five years where I lived
20 we had water. When they built in the back of us
21 it diverted the stream of water and since then
22 every year if there's a drought we go dry. I do
23 think that the builder has the responsibility and
24 has to come up with a supply of water for the
25 people that are still in these homes. It's very

1 163

2 very possible to divert the mainstream of water.

3 My second is blasting. That was my
4 father's profession. He was a professional
5 dynamiter for many of the big roads around here.
6 From what I heard, they may be blasting within
7 fifty feet of the homes. That's much too close.

8 You cannot have children in this area exposed to
9 blasting that close to their homes. Just so that
10 you know, because I didn't mind my father I'm
11 deaf in one ear from going too close to his
12 blasting.

13 My other concern is I have heard in
14 surrounding areas there are big businesses that
15 come in, they agree to everything and when
16 they're not happy with either our hospitalization
17 or things that we would give fire departments
18 they can hold up paying taxes. I know of one
19 closeby that for five years has not paid taxes
20 because they're not satisfied they said with what
21 the Town is giving them. I would like to see our
22 lawyer and their lawyers put something in writing
23 that they have no intention of holding up taxes.

24 My second thing is I was a manager at
25 Woodbury Commons. I do know the problems with

1 164

2 traffic but I also know that you're going to have

3 to use your Town police. We have one of the best
4 police departments in this area. You cannot rely
5 on the security that they are going to have.
6 It's two jobs. They're just there for
7 shoplifters. You're going to have the
8 professionals come in. The store I worked at was
9 instrumental in catching one of the largest rings
10 from Russia. They bring them over for six
11 months, they set them up in different homes, they
12 work different areas, they move to different
13 places and they go on before you can catch them.
14 We are going to need professional police officers
15 in the area. I would like to see this developer
16 and his lawyers say they will give so much, not
17 saying it's going to trickle, trickle down. I
18 want to know that they're going to pay our police
19 department so much a year for the overtime
20 they're going to have to put in or for the
21 salaries to pay them. You cannot depend on the
22 trickle down theory because my tax dollars are
23 trickling too. I would like to really see them
24 do something for that.

25 I would say in favor of The Market

1
2 Place, and I'm sorry you think I'm stupid sir, I
3 will keep my bank accounts where they are.

4 CHAIRMAN EWASUTYN: We'll give you two
5 minutes.

6 MS. DAVIS: The wages that were listed
7 were very low. The wages will go -- are more
8 than are stated in the paper. I think it's good
9 that it's going to maybe take some people off of
10 the tax roll. It's going to be close enough to
11 our City of Newburgh so some of these people can
12 get out. I don't know if you know it, many of
13 these large retailers will pay for these young
14 people for college credits. They may not have the
15 opportunity to do that unless these stores stand
16 behind it. That's one of the things they offer.

17 Also, I think we're going to have a
18 trickle benefit. If these people come in they're
19 not just going to go to The Market Place, they're
20 going to visit the businesses around. We're

21 going to have a benefit from that.

22 I just think that it's a way to maybe
23 take some of these local people that can't get
24 jobs anyplace else and give them an opportunity
25 they deserve to have, something in the locality

1 166

2 that they can get to and earn a livable wage, and
3 they do. You just gave a base wage but you get
4 -- we got premiums for selling so much, we got
5 tax dollars, we got 401s. I made much more money
6 than what was stated there. There's a lot of
7 things. If kids are willing to work they will get
8 paid much higher than what's in the paper.

9 Also, I don't know, I've lived a long
10 time and I found out that animals, when their
11 habitats are interrupted they do survive. I just
12 don't feel that that's a valid reason for not
13 building.

14 Thank you.

15 MR. O'DONNELL: Bruce Manheim.

16 (No response.)
17 MR. O'DONNELL: Carmen O'Connor.
18 (No response.)
19 MR. O'DONNELL: Miguel Marquez.
20 (No response.)
21 MR. O'DONNELL: Barbara Taribel.
22 (No response.)
23 MR. O'DONNELL: Fran Shapiro.
24 MS. SHAPIRO: I'm Fran Shapiro, I live
25 at 425 -- can you hear me okay -- Vails Gate

1 167
2 Heights Drive in New Windsor. I come to you
3 because what happens in Newburgh affects New
4 Windsor and vice versa, as you know.
5 Now, I'm going to spare you a lot of
6 words because Carolyn Topliff said everything
7 that I wanted to say. She talked to you about
8 trees, she talked to you about wetlands, she
9 talked to you about air quality, she talked to
10 you about future generations. So what can I talk

11 to you about? I talk to you and say this is a
12 moral issue. You folks live here. You all are
13 rather young but maybe some of you have children
14 and grandchildren. I talk to you about the
15 future generation. It's not fair to leave this
16 for our children and grandchildren to deal with.

17 The air quality really disturbs me,
18 particularly the respiratory stuff, and failing
19 EPA air quality seven times is really disturbing.
20 The high cancer rates are off the charts. Now,
21 you know there are varying studies and scientists
22 now that tell us how the environment affects our
23 health. I'm sure there isn't one of you up there
24 who has not had a loved one, husband, wife,
25 sister, mother, daughter, son, who has not been

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2 affected by cancer. There is a direct
3 relationship to the environment, what we do to
4 the air quality, and this is not even talking
5 about global warming which kicks in also.

6 I hope you all will see the inevitable
7 truth, the documentary which talks about all this
8 stuff.

9 I thank you for your patience. This
10 can't be easy for you. I implore you to make the
11 right decision on this Market Place. It's been
12 suggested you can do something smaller, a town
13 center. Something smaller would be appreciated.
14 I think you guys can do it and I think you should
15 do it. I hope you set the example for the other
16 towns to follow suit. Thank you.

17 MR. O'DONNELL: Mark Baker.

18 (No response.)

19 MR. O'DONNELL: Michael Mazzariello.

20 MR. MAZZARIELLO: Good evening to you.

21 My name is Michael Mazzariello, thirty-five year
22 resident. I live on Forest Road. Thank you for
23 the opportunity to speak here. I wouldn't want
24 to be you.

25 I just don't like a couple things. As

1
2 an attorney, if something happens to these
3 people's wells it should be taken care of. The
4 static about if you could prove it was because of
5 the blasting, that language is unnecessary. I
6 don't like the pitting of neighbor against
7 neighbor. Not a good thing. We own a lake,
8 those are my friends. They're not going to like
9 what I have to say after this. I empathize and
10 sympathize with them.

11 I'm perplexed because this corridor has
12 been on the master plan for commercial
13 development since I moved up here in 1972. Julie
14 Miron offered my brother to buy that property for
15 \$100,000. No one bought it. It was zoned
16 commercial.

17 Unfortunately I have been taking a lot
18 of slack because I have a radio show. I think
19 The Market Place should be built. I think if
20 it's done right it will help this area
21 tremendously. I don't want to see the people of
22 Winona Lake hurt. That's my dilemma. I think

23 the attorneys need to get out of it and
24 commonsense to start taking precedence. Certain
25 language that people want to use, you know, just

1 170

2 to ensure that if something goes wrong with their
3 property someone will come in and take care of
4 it. They don't have the resources to hire an
5 attorney, although most of them have come to me
6 for help and I will help them. If they ask me
7 for help I'll help them. It's a great idea. I
8 think the design is wonderful. My wife is all
9 for it. I'm glad I had the opportunity to speak.

10 I welcome anyone that disagrees or
11 agrees to call in to the radio show Saturday
12 morning. I'm on AM and FM. I'm not soliciting
13 anything.

14 UNIDENTIFIED SPEAKER: Don't get enough
15 calls?

16 MR. MAZZARIELLO: They're my neighbors,
17 they're my friends. It's a commercial corridor,

18 it's been zoned that way forever.
19 The letter that went out for the
20 \$150,000, I think the language, the verbiage was
21 just nonsense. It came out wrong. You can't ask
22 twelve people to stand up and object and say it's
23 good and all that. It just doesn't look good.
24 As we say in Italian, no lookie too good.
25 Commonsense. I think if everyone sits down in a

1 171
2 room -- if you need help with the remediation
3 I'll be more than happy to do that free. Just
4 show them how.
5 No one understands 87, 84, it's going
6 to be connected. Most of the traffic they see
7 now is not going to be there, it's going to go
8 toward Drury Lane. That's the whole idea of 87,
9 84. I would like to see an entrance off 87, 84
10 right into the mall like they have in Paramus and
11 other malls throughout the United States. I have
12 not seen it, that plan might even be on the

13 table.

14 Do I have much time left?

15 CHAIRMAN EWASUTYN: Two minutes.

16 MR. MAZZARIELLO: I'm sorry because I

17 just got here off the motorcycle. I'm a little

18 nervous about the game tomorrow.

19 I think that if everyone sits down an

20 amicable solution can be reached here. This

21 place could be a really good thing. The Market

22 Place could be a very good thing for the area.

23 We'll have something no one else has. We don't

24 have to spend our money elsewhere.

25 UNIDENTIFIED SPEAKER: We don't need

1 172

2 it.

3 MR. MAZZARIELLO: Neighbor against

4 neighbor, that's ridiculous. It's divide and

5 conquer. Let's sit down and talk with the

6 developers. If you feel like it's going to be

7 built anyway, then try to do something that will

8 help yourselves. Fixing the dam will help.

9 Since I have been here that dam has been a

10 problem.

11 The bottom line is nobody stepped up to

12 the plate to buy that property, it's zoned

13 commercial, it's been zoned commercial.

14 On behalf of my wife, she'd be thrilled

15 to see The Market Place built.

16 If anyone has any comments, the number

17 to the show on Saturday morning is --

18 UNIDENTIFIED SPEAKER: Boo, boo.

19 CHAIRMAN EWASUTYN: Please.

20 MR. MAZZARIELLO: I talk as a resident,

21 a resident of the Town. I'm sorry to see

22 neighbor against neighbor and I thank you for the

23 opportunity to speak.

24 MR. O'DONNELL: The next speaker is

25 Michael Gabor.

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MR. GABOR: Good evening. My name is

3 Michael Gabor, G-A-B-O-R, I live in the City of
4 Newburgh. It's funny, I've been here for sixteen
5 years and I've been watching the development
6 going on on 300. As it's happened I've avoided
7 that street more and more as time has gone on.
8 As a commuter I've been shopping more in New York
9 City than up here because the traffic already is
10 horrendous.

11 One of the things that we're going
12 through right now is we're going through a master
13 planning process in the City of Newburgh. One of
14 the things that has come out of this through the
15 research before us is that there's something
16 going on right now that's a trend. It's a trend
17 in planning in which, you know, you talk about
18 sustainability, you talk about what's good for
19 the future and you talk about, you know, things
20 that will help actually maintain themselves and
21 you won't have to worry about things like what a
22 lot of people have brought up tonight, one of
23 those things being pollution, runoff. You're
24 talking about water and sewer which you're going
25 to need more of. Right now I know that the Town

1
2 of Newburgh is using partially our sewer system
3 and our water supply. I think that the growth
4 that this will involve will overburden an already
5 overburdened system. I think until you have your
6 own system in place, I think that it would not be
7 a very good idea to go ahead with this as it's
8 planned. The other thing is someone mentioned
9 you right now have a -- right now you have a
10 volunteer emergency service. From what I hear it
11 looks like there's already problems as far as the
12 number of calls they're getting. Obviously the
13 number of people who are volunteering are
14 becoming less and less. This will get -- you
15 don't have to -- you know, it doesn't take much
16 to understand this will happen. If you look at
17 what a paid emergency system is like, just look
18 at the City of Newburgh. It is such a burden on
19 the taxpayers there. It's more than half of our
20 entire budget. It's something that goes on

21 because these people end up with lifetime health
22 benefits and pensions and all that, and that's a
23 big expense that, you know, just grows every
24 time.

25 I understand that Mr. Hinchey had put

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2 together a plan that dealt with this smart growth
3 issue and took into consideration what would be a
4 smarter idea for this area, one of them being
5 that, you know, in the future we're going to
6 be -- because of gasoline prices, because of the
7 supply, people are not going to want to really
8 drive. The cities are going to be the places of
9 the future. You have an opportunity here to
10 actually do what the city has failed to do and
11 bring commercial development that's smart, that
12 has, you know, living spaces above them and more
13 like a main street situation. A mall is an
14 antiquated idea, you know. Look at the Newburgh
15 Mall. Look at what happened when it came here.

16 I was not here when this happened but I hear the
17 stories. All these family-run businesses that
18 were in the same place in the City of Newburgh
19 for generations, just to survive they had to go
20 to the Newburgh Mall if they even wanted to
21 continue. How many of them are still there, you
22 know? They are not there any more. Here we are,
23 we're bringing in businesses from other places,
24 the money is going to go through here and it's
25 going to leave. It's not going to help the area.

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2 You need to develop a smaller sort of main street
3 idea where you have local people making money in
4 the area and keeping the money in the area.

5 Thank you.

6 MR. O'DONNELL: David J. Ryan.

7 (No response.)

8 MR. O'DONNELL: Jim Caravalla.

9 (No response.)

10 MR. O'DONNELL: Jim is not here I

11 guess.

12 Kelty McCormick.

13 MS. McCORMICK: Hello. My name is
14 Kelty McCormick, I live at 6 Morris Drive in the
15 Town of Newburgh and I own a house on Winona
16 Lake, 20 Winona Avenue. If you draw a circle
17 around New York City no one would deny that we
18 are the last piece of pie to develop. To
19 question this developer and study his proposal is
20 not unpatriotic. To question the process, this
21 process is not unnecessary. I think reasonable
22 people can discuss these issues and hopefully not
23 wind up at war with their neighbors.

24 Development is coming our way. What
25 kind of development? An area zoned for

1 177

2 commercial development can entertain more than
3 retail development. That's something that a Town
4 has a choice in. However, when an individual
5 landowner comes to you the proposal should be

6 combed through.

7 My biggest fear with the coming
8 development in the Town of Newburgh is the
9 possibility that the mature neighborhood that I
10 bought my house in will be cast in the shadow of
11 this mega mall.

12 I am new to Town. I decided to retire
13 here. This vastly changes the complexion of the
14 Town. The sheer size of the development
15 guarantees to influence our lives for
16 generations. If there are technical glitches
17 we'll feel them most acutely in the neighborhoods
18 surrounding the project. As airplanes land at
19 Stewart Airport in the future they'll see a
20 vastly different landscape than they do right
21 now. We'll hear even more loudly those planes
22 than we do now because of the sea of asphalt that
23 will be coming.

24 The day of the last hearing WNYC talked
25 about development and what makes community.

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2 Human scale is what makes community. The ability
3 to make eye contact is what makes community. I'm
4 not sure what happens when you build a mega mall
5 that doesn't promote any of those things.

6 In reading over the Town's master plan
7 it seems the leading concern was in attracting
8 ratables. Business development was also an
9 unspoken objective, and I would assume they were
10 trying to consider lowering local taxes.

11 Everybody knows that the power plant in Town is
12 arguing their assessment and that their
13 contribution to our tax rolls is a large portion
14 of our budget. This is a simplistic fix if
15 retail development is to fill those coffers
16 instead. I don't believe the commercial
17 buildings being proposed here promote solutions
18 to any of the concerns that the master plan has.

19 Indeed it burdens the community with increased
20 needs for services.

21 The police chief in the Town of
22 Woodbury where Woodbury Commons is located has

23 repeatedly requested larger budgets to handle the
24 crime generated by his mega mall. I can't help
25 but wonder how all the customers generated by The

1 179

2 Market Place would compete for local ambulance
3 services here.

4 Studies at Pace University have
5 suggested that 95 percent of the retail dollars
6 generated by the Poughkeepsie Galleria leave the
7 community all together. The sales tax revenue
8 generated by this Market Place mall would go to
9 Goshen to be parceled out all over Orange County.

10 Last year The Times Herald Record reported that
11 the Town of Goshen had over 200 projects before
12 their planning board and that they went to the
13 State of New York to request help in dealing with
14 the dilege of new development there. The Times
15 Herald Record also reported that the number of
16 projects before this Board was 900 or in excess
17 of 900, and yet this Town feels it can

18 accommodate that kind of planning mode all by
19 itself, to say nothing of the immense project
20 known as The Market Place mall.

21 This phase of development for this
22 project is most important because this is our
23 chance to comb through the project. I would hope
24 that you would consider each subject area in the
25 D.E.I.S. as worthy of a public meeting. I know

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2 you guys do a lot of work. Some of you have told
3 me you eat, breath and sleep planning, and I
4 thank you for your services to the community. I
5 hope you'll consider doing an even better job
6 here on this proposal. I don't think The Market
7 Place mall can argue that you haven't been
8 helpful to them by lending your consultants to
9 them. The process has been speedy so far. Let's
10 slow down a little, please, and comb the details
11 out better, please.

12 MR. O'DONNELL: Lee Murphy.

13 MS. MURPHY: I would like to relinquish
14 my three minutes to John Parker if it's
15 acceptable.

16 CHAIRMAN EWASUTYN: We're going to keep
17 the order. If you're not speaking then we'll go
18 on to the next speaker.

19 MS. MURPHY: Very good.

20 MR. O'DONNELL: Jonathan Lofaro.

21 (No response.)

22 MR. O'DONNELL: J.G. Barbour.

23 (No response.)

24 MR. O'DONNELL: Can everybody hear me?
25 These are people that signed up tonight, by the

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2 way.

3 MR. O'DONNELL: CEA --

4 MS. MAYER: I'm here. I'm reading for
5 J.G. Barbour. I'm Maggie Mayer, 10 Wintergreen
6 Avenue, Newburgh, New York. I'm reading comments
7 from J.G. Barbour, Ecological Consultant, 5

8 Fishcreek Road, Saugerties, New York 12477.

9 In looking for a fitting analogy to
10 what the developer's D.E.I.S. is trying to tell
11 us about The Market Place site I thought of New
12 York City's Central Park. Imagine a developer
13 trying to convince New Yorkers, including the
14 mayor and the parks commissioner, to allow a huge
15 housing and commercial complex to be built in
16 Central Park, arguing that the park is worthless
17 as a natural area since it is surrounded by
18 apartment buildings, stores and skyscrapers. As
19 to its wildlife habitat value, the park must also
20 be worth little since nothing but weeds and rats
21 could possibly live there. Yet this is exactly
22 what the D.E.I.S. says about The Market Place
23 site. I suspect that nothing could be further
24 from the truth, but the truth is we don't know.
25 The developer's on-site biological survey tells

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2 us nothing useful and twists the few facts we

3 have to make its point about the site's
4 worthlessness.

5 In 2003 there was a bio-blitz in
6 Central Park. What's a bio-blitz? It's a bunch
7 of biological experts, plant experts, bird
8 experts, mammal experts, reptile and amphibian
9 experts, insect experts, all getting together in
10 one place for two days to try to find all the
11 species they can. Guess how many they found in
12 Central Park? Over 800. Who would have thought
13 there could be so many kinds of plants and
14 animals in a city park entirely surrounded by
15 streets, dense traffic, high buildings and
16 millions of people?

17 There's been nothing like a bio-blitz
18 for The Market Place site. The absence of
19 necessary substantive investigation and
20 evaluation regarding the ecological
21 characteristics of the site renders its
22 conclusions meaningless. From the evidence of
23 the D.E.I.S., the biological survey of The Market
24 Place site is one of the worst I've come across
25 in over twenty-five years of biological

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2 consulting and survey work. I should point out
3 that because I was denied access to the site I
4 cannot draw conclusions beyond those I've stated
5 in this testimony. However, I have thoroughly
6 analyzed and investigated the surrounding areas,
7 which may be reasonably assumed to resemble the
8 site.

9 My written commentary goes into more
10 detail about the shortcomings of the developer's
11 investigation of the site, analysis of
12 information and basic conclusions regarding the
13 biology of the site. Here I would like to point
14 out the most glaring problems.

15 No information is given as to who did
16 the field survey, what methods were used, how
17 much time was spent, and when or what the
18 surveyor's credentials and qualifications are.
19 This is an unacceptable omission entirely out of
20 line with professional standards and practices.

21 Besides, the Town Board, the concerned public and
22 their chosen representatives have a right to know
23 who performed this work.

24 Knowledge of the geography of the site
25 where important habitats are located is essential

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2 in reviewing any site plan. The standard
3 procedure to is precisely map the habitats using
4 GPS technology and GIS digital mapping. But the
5 resulting maps are only as good as the groundwork
6 that precedes them. I was stunned to see that in
7 the D.E.I.S. the habitat map for this project had
8 only two habitat units, Northern Hardwoods and
9 Hardwood Swamp. Other habitats are mentioned in
10 the D.E.I.S. including isolated wetlands which
11 could be vernal pools, a critical habitat for
12 several rare salamanders. These are not mapped.
13 The Quassaick Creek and its flood plane, known
14 reservoirs of high biodiversity, are not mapped,
15 though the creek is easily seen on the aerial

16 photo in the D.E.I.S.

17 One recent project of mine was a survey
18 of the Quassaick Creek in 2003 and 2004 from the
19 Hudson River in the City of Newburgh upstream to
20 Algonquin Park across the street from The Market
21 Place site. My study was commissioned by the
22 City of Newburgh and the Quassaick Creek
23 Coalition to provide supporting information for a
24 planned urban park and trail system along the
25 Quassaick Creek. I found the Quassaick Creek and

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2 its surroundings to be surprisingly rich in plant
3 and animal species, even rare ones. I found two
4 rare plants and a rare animal along the creek
5 within the city itself. The situation was just
6 like that of Central Park as revealed by the
7 Central Park bio-blitz.

8 Rare species issues are not addressed
9 in the D.E.I.S. The most important kinds of
10 plants on the site were not identified to

11 species, only to genus. The D.E.I.S.
12 acknowledges that sedges and an agrimony were
13 found on the site during surveys conducted by the
14 developer's consultant. These genera are
15 significant because I found Narrow Leaf Sedge, a
16 New York State endangered species, and Woodland
17 Agrimony, a New York State threatened, along the
18 Quassaick Creek south of the site in 2003. Most
19 important, why? Astonishingly the consultant
20 uses this failure to identify plant specimens to
21 claim that no rare plant species occur on the
22 site. Is the biological consultant deliberately
23 not identifying plant specimens? Many plants
24 require specialists to identify them, and in such
25 cases it is standard practice to call in these

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2 specialists to make accurate identifications.

3 Obviously this was not done.

4 Does this matter? Yes, it matters for

5 two plants in particular, one was agrimony and

6 the other is sedge. I found the rare Woodland
7 Agrimony on the Quassaick Creek in the heart of
8 the City of Newburgh, the Narrow Leaf Sedge along
9 the Quassaick Creek less than a mile south of The
10 Market Place site.

11 CHAIRMAN EWASUTYN: I'm going to allow
12 you two minutes to complete.

13 MS. MAYER: I'll be able to do it in
14 two. Thank you.

15 An agrimony and an unknown number, the
16 D.E.I.S. doesn't say how many species, of sedges
17 were found on The Market Place site. The
18 agrimony verdict: "Probably" not Woodland
19 Agrimony but more likely Downy Agrimony, an
20 unprotected species. Probably is not an
21 acceptable scientific conclusion, particularly
22 given the developer's proposal which would remove
23 the entire site through blasting and regrading
24 from a natural habitat to a flat, featureless and
25 impervious surface and big box retail.

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The sedge verdict: Except for the common Tussock Sedge, sedges were not identified to species and are referred to as Carex species in the consultant's list of plant species found on the site. Yet they conclude Narrow Leaf Sedge does not occur on the site. How and why? Because Narrow Leaf Sedge was not identified on site. Excuse me? Failure to properly identify these species brings into question the thoroughness and validity of the entire section of the D.E.I.S. provided to the Board.

Perhaps most personally galling is this: The Market Place D.E.I.S. refers to my Quassaick Creek study but in what I see as an effort to condemn The Market Place site as biologically worthless, it turns the main finding of my study on its head. My Quassaick Creek survey shows that jewels of biodiversity can be found in urban settings. The Market Place D.E.I.S. contends that the existing development around the site isolates and degrades the site so

23 much that development is the best possible use.
24 This is in total disagreement with my conclusion
25 that high biodiversity and urban development can

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2 and do exist side by side. The developer's is a
3 self-serving conclusion that goes against the
4 real evidence about Quassaick Creek. Why should
5 we conclude the opposite about The Market Place
6 site?

7 In summation, the D.E.I.S. has hardly
8 any actual information on biological resources.
9 What it does provide is useless and falls far
10 short of the basic requirements of State
11 Environmental Quality Review. The developer has
12 simply not addressed the issues. In terms of the
13 biology of the site, the D.E.I.S. provides no
14 basis on which to make a decision regarding The
15 Market Place development proposal.

16 CHAIRMAN EWASUTYN: Would you be so
17 kind to leave a copy of that with the

18 Stenographer?

19 MS. MAYER: One more sentence. Since
20 the developer won't provide even the most basic
21 information on biological resources, there's only
22 one way to obtain this information. This Board
23 should require the developer either to fund a
24 thorough and professionally conducted study by a
25 qualified scientist or to allow independent

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2 qualified scientists to study the site. Thank
3 you very much.

4 If I could just say one more thing.

5 CHAIRMAN EWASUTYN: I think your time
6 is up.

7 MR. O'DONNELL: Our next speaker is CEA
8 Engineers.

9 MS. KOHLMANN: Good evening. Thank you
10 for this opportunity to address the Board. My
11 name is Laura Kohlmann, K-O-H-L-M-A-N-N, I live
12 at 18 Wintergreen Avenue in Newburgh.

13 I'm reading the report from CEA
14 Engineers, P.C. CEA has reviewed the D.E.I.S.
15 for The Market Place of Newburgh and its
16 associated appendices along with the stormwater
17 management report calculations. CEA's review has
18 focused on wetlands and stormwater management
19 issues.

20 CEA personnel were denied access to the
21 site. As a result, all comments were based upon
22 review of documents and photographs. The order
23 of the comments is arbitrary and does not reflect
24 the importance of any comment.

25 First is wetlands. Our review of the

1 190

2 wetlands sections of these documents and related
3 maps and the aerial photographs from other
4 sources suggest that some changes to the
5 delineation of on-site wetlands may be warranted.
6 However, no formal opinion about the accuracy of
7 the on-site delineation can be offered without

8 site access and inspection of the subject
9 wetlands. I'm not going to go into chapters of
10 the Town Board codes but they're in the report
11 and I will hand that in.

12 The Town of Newburgh Code requires the
13 stormwater management plan to maintain the
14 existing hydrologic characteristics of the
15 watershed. The D.E.I.S. fails to demonstrate
16 that stormwater runoff volume and the timing of
17 stormwater discharge from the newly created
18 detention basins will not adversely affect
19 downstream structures or properties. According
20 to Town of Newburgh Code, structures which convey
21 streams must be checked for capacity to carry
22 fifty-year flows. The D.E.I.S. indicates that
23 the I-84 culvert will be reviewed in compliance
24 with New York State DOT regulations which are
25 less stringent than those of the Town of

3 D.E.I.S. or stormwater management plan that
4 demonstrate the existing I-84 culvert is capable
5 of carrying fifty-year flows under post-
6 development conditions.

7 Town of Newburgh Code requires no
8 change in upstream or downstream water surface
9 elevations without agreement of upstream or
10 downstream property owners. No calculations are
11 present in the D.E.I.S. or stormwater management
12 plan that demonstrate through flood routing that
13 no increase in surface water elevation will
14 occur.

15 The applicant has not provided the
16 profiles of the proposed drainage facilities
17 including their size and type of material as
18 required by the Town of Newburgh Code. We
19 request the necessary information be added for
20 review.

21 The Town of Newburgh Code requires that
22 plans demonstrate safe overland conveyance of the
23 one-hundred year storm through the development of
24 the site. The stormwater conveyance system was
25 designed to convey a twenty-five year/

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2 twenty-four hour storm event. The D.E.I.S. does
3 not contain a demonstration that a hundred year
4 storm event could be safely conveyed across the
5 site.

6 The drainage boundaries shown for the
7 site drainage areas are difficult if not
8 impossible to read on drawings DA-1 and DA-2.
9 The lack of clear drainage boundaries makes it
10 extremely difficult for professionals to evaluate
11 stormwater management for the site. It makes it
12 virtually impossible for the public to do so.

13 The stormwater management plan
14 describes drainage areas A and C as predominantly
15 consisting of lawn/landscape areas. Drainage
16 areas A and C, as CEA is able to read the
17 drainage boundaries, appear to be predominantly
18 wooded. It appears that the areas of impervious
19 cover and lawn/landscaped areas are overstated.
20 If so, the stormwater calculations for

21 pre-development conditions would overstate the
22 pre-development runoff because runoff rates,
23 curve numbers, are higher for lawn/landscape
24 areas than for wooded areas. Because of the
25 difficulty in reading the drainage area

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2 boundaries, the amount by which pre-development
3 runoff may be overstated cannot be determined.
4 We request the applicant provide drawings that
5 clearly delineate drainage area boundaries and
6 alter pre-development runoff calculations if
7 necessary.

8 CHAIRMAN EWASUTYN: Laura --

9 MS. KOHLMANN: I think I can wrap it
10 up.

11 As just described, the D.E.I.S.
12 identifies drainage areas A and C as
13 predominantly consisting of lawn/landscaped
14 areas. The pollutant loading analysis performed
15 by -- for pre-development conditions calculated

16 the pollutant loadings from these areas assuming
17 that the areas were predominantly lawn/landscape
18 rather than woods. Wooded areas were ignored in
19 calculations of pollutant loadings. Lawns export
20 significantly -- lawns export significantly
21 higher pollutant loads, particular for nutrients,
22 than do wooded areas. Thus by considering wooded
23 areas as lawn/landscape the D.E.I.S. grossly
24 overestimates the pre- development nutrient
25 loadings from stormwater. Pre-development metals

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2 and sediment loadings are also overstated. The
3 failure to consider pre-development pollutant
4 export from wooded areas overstates the
5 pre-development pollutant export and results in a
6 false comparison with post-development
7 conditions.

8 Lastly, the stormwater management plan
9 states on page 4-3 that drainage area C-3 will
10 direct its runoff to a subsurface infiltration

11 system. Design standards contained in the Town
12 of Newburgh Code require that innovative
13 stormwater management facilities may be proposed
14 provided that they are accompanied by detailed
15 engineering plans and demonstrate performance
16 capabilities that are acceptable to the town
17 engineer. The D.E.I.S. in supporting documents
18 does not provide the required detailed
19 engineering plans for the proposed system, nor
20 does it provide specific performance
21 capabilities. We request the applicant provide
22 such information.

23 In addition, because use of
24 infiltration systems is not allowed without the
25 approval of the town engineer, the D.E.I.S.

1 195

2 should identify alternatives to infiltration from
3 stormwater management.

4 MR. O'DONNELL: Ted Kohlmann.

5 MR. KOHLMANN: Ted Kohlmann, 18

6 Wintergreen Avenue. I thank you for this
7 opportunity to talk to the Planning Board.

8 What I have is very brief. What I
9 would like to refer to is the fifty-foot term
10 that we hear often in regards to distance from
11 blasting or buffers. Tonight, with Mr. Mike
12 Murphy's assistance and the Board's permission, I
13 would like to just demonstrate fifty feet and
14 what it actually looks like (indicating). This
15 is the distance proposed for buffers in the Town
16 of Newburgh, buffers from the back of the various
17 residents' homes to the back sides of where the
18 border will be for The Market Place property to
19 begin, and also for possible distances from where
20 the blasting may begin.

21 Thank you very much.

22 MR. O'DONNELL: Sybil Pole.

23 MS. POLE: I'll pass.

24 MR. O'DONNELL: Wendy Lofaro.

25 (No response.)

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UNIDENTIFIED SPEAKER: Wendy Lofaro.
She doesn't have her address on here. She lives
on Brookside Avenue. Wendy is not able to be
here tonight because she has such severe asthma
she mostly can't go outside. Dear Mr. Ewasutyn,
Members of the Planning Board and Consultants,
Orange County has the worst air pollution in New
York State having been given an F by the American
Lung Association. The worst of that pollution is
from the emissions given off by cars. 2,500 more
cars an hour from The Market Place mall will make
things even worse for people who have asthma and
other lung problems, people like me. If you've
never had trouble breathing you wouldn't
understand what it's like not to be able to take
your next breath. Try breathing through a straw.
Now try pinching the straw. Next, put some
cotton in your mouth. I have severe, persistent
asthma. It requires I take three medications
daily, an injection of medication every two weeks
and an allergy injection every month. Who is

23 going to pay for my extra medical bills, trips to
24 the emergency room or extra medication because
25 the air I will be breathing will be even worse?

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2 Who is going to protect my family and me from the
3 extra pollution emitted from all those cars?

4 Some residents of the Town criticized
5 me because they think the only reason I'm against
6 this mall is because it's directly in my
7 backyard. When asked if they would like it in
8 their backyard, however, they immediately say no.
9 My backyard resides at 15 Brookside Avenue. It's
10 a pretty quiet cul-de-sac that consists of only
11 residential homes, no businesses. My backyard is
12 quiet where I can sit outside and read or watch
13 my son play. Occasionally I have wildlife
14 visitors such as deer and turkeys.

15 If The Market Place access road is put
16 behind my house my life and home will change
17 completely. I will no longer have the house in

18 the middle of the block but will be third from
19 the end. I will no longer have the wooded area
20 behind my house that now provides a buffer from
21 I-84. Instead I will have an eight-foot high
22 wooden fence that is totally unacceptable because
23 it will not keep out noise and can be easily
24 broken. Who will be responsible for maintaining
25 this fence when a car or the wind knocks it down?

1 198

2 If the developer is acting in good faith as some
3 of my neighbors have previously stated, why is
4 the developer putting up such an inexpensive
5 fence?

6 There will also be a great deal of
7 trash along the access road that will find its
8 way into my backyard. Who will be responsible
9 for cleaning that up?

10 I bought my house on Brookside Avenue
11 because I have always loved this area. I grew up
12 on Wintergreen Avenue where my parents still

8 would feel that I were making a deal with the
9 devil. I suppose I am meant to be bubbling with
10 joy that I would be able to walk out my front
11 door and admire my view of the lake. In my
12 backyard I have lost everything. My privacy will
13 be destroyed and instead I will have an ugly,
14 cheap fence to hide the cars but not the noise
15 that will increasingly pollute my air. There
16 will be no turkeys here but there will be tons of
17 filthy trash. Instead of darkness there will be
18 bright fluorescent lights to help the burglars
19 find my house.

20 My quality of life will be forever
21 impacted because the Town of Newburgh Planning
22 Board and the Town officials are afraid to say no
23 to the developers of The Market Place. Will the
24 developer be liable for any damage that my
25 property will incur because of this huge project?

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2 If my foundation --

3 CHAIRMAN EWASUTYN: I think --

4 UNIDENTIFIED SPEAKER: It's almost
5 done. What if my foundation cracks or windows
6 break from the blasting. Are they going to cover
7 the expenses to repair my home?

8 What about all the dust that will be
9 raised during construction?

10 Do you or the developer know what it is
11 like to wonder if you will be able to take your
12 next breath or when your last might be? Asthma
13 has forever changed my life. Making it through
14 one day without an asthma attack is very good for
15 me. What is the developer going to do to help me
16 continue having a good day? Sincerely, Wendy
17 Lofaro.

18 MR. O'DONNELL: Lucien Mott.

19 MR. MOTT: My name is Lucien Mott, I
20 live at 7 Wintergreen Avenue. I just want to
21 echo a lot of the concerns that a lot of people
22 have spoken about tonight, especially about the
23 traffic and just about the scale of the project.
24 I'm worried about the scale of the project and
25 its kind of lack of kind of human contact that it

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2 would bring about. Because of this huge shopping
3 center coming to our area it's going to change
4 the area forever.

5 I would just like to echo those
6 concerns that have already been spoken tonight.
7 Thank you.

8 MR. O'DONNELL: Nicholas Toleman.

9 (No response.)

10 MR. O'DONNELL: I'm not sure about this
11 last name. Warren S. Lang, is it?

12 MR. TULVE: Hi. My name is Nicholas
13 Tulve, I live at 107 Highland Avenue. I've lived
14 there for the last thirty years and I'm a native
15 Newburgher. Most of what I wanted to say tonight
16 has already been taken so I'll make my comments
17 brief and I'll submit written comments.

18 I think that the Planning Board, for
19 all the hard work they do the one thing they
20 really need to do is allow access to this site by

21 independent individuals who can give us a real
22 reading of what's going on on the property.

23 With that said, the last thing I want
24 to say is I'm the past president of Winona Lake
25 Homeowners Association and I do not support The

1 202

2 Market Place mall. Thank you.

3 MR. O'DONNELL: Warren S. Lang.

4 MR. LANG: It's Craig, C-R-A-I-G.

5 MR. O'DONNELL: My apologies.

6 MR. LANG: What's bothering me is when
7 I go out of Wintergreen Avenue am I going to be
8 able to go east or west with those two highways
9 coming out there? Is there going to be some way
10 that they can build up Route 52 to handle that
11 traffic? I mean if they just dump the traffic
12 out there and the entrances, those people that
13 come out there are going to be looking to get out
14 of Town. They won't be headed for 84 because
15 they could have went up and went on 84 up on 300

16 up there.

17 My first trip up South Plank Road was
18 back in 1946, about sixty years ago. I was
19 driving a 1940 Chevy and I was going to see the
20 Milton Berl show and the Ed Sullivan show. I saw
21 a lot of changes and I wonder who is going to
22 have to pay for the upgrades to the water system.
23 In my opinion we don't have water. We have very
24 little water. The sewer system, I think if we
25 all flush our toilets tonight it will fill the

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2 system up. That's about all I have to say.

3 Thank you.

4 MR. O'DONNELL: Ronald Hughes.

5 MR. HUGHES: Good evening. Most
6 everything has been hit tonight by the people
7 that spoke prior to myself but I would like to
8 recap some of the things that were provided for
9 by the engineers, especially pertinent to the
10 Quassaic Creek which I think we're grossly

11 overlooking.

12 I will refer you to some photographs
13 that were taken this afternoon, and we can all be
14 grateful that we're not enduring the same
15 punishment our brothers and sisters in Port
16 Jervis have tonight. However, these are some
17 photographs that I'm going to put on file with
18 the Planning Board and the town supervisor's
19 office so we can see the amount of water that
20 comes in before and after the project. Some of
21 these photographs show pictures of where it comes
22 out from under 84. The culverts are
23 approximately from that wall to over here. You
24 can see the high water marks on the photographs
25 if you'll take the time to see what goes on here.

1 204

2 I would like to edit these into the record to say
3 that I believe that the D.E.I.S. is totally
4 incomplete.

5 I happen to be a sitting member of the

6 Board of the Quassaic Creek project which divides
7 the City of Newburgh from the Town of New
8 Windsor. Mr. Barbour's study, the biodiversity
9 study that was prepared for us in 2001 through
10 2003, is very conclusive. This D.E.I.S. that was
11 presented by The Market Place is not much more
12 than toilet paper the way I read it.

13 I will refer the public, and this
14 Board, and the County Planning office and
15 everyone up and down the ladder to refer to page
16 9 of the Orange County Water Authority water
17 quality bio-monitoring project that took place in
18 2004, 2005 which is entitled phase I report. Not
19 only on page 9 but on page 10 there are two
20 charts that will report to you accurately and
21 concur with Mr. Barbour's report, the
22 biodiversity study that he prepared for the City
23 of Newburgh for the Quassaic Creek. It will show
24 you not only are we slightly impacted but we're
25 at the bottom of the list where it's going to be

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worse and worse as we go along because of the pollution and the nonsense that's created.

The impervious amounts of acreage that's going to be covered with this Market Place will further warp these figures and cause not only the Gidneytown Creek which joins into the Quassaic Creek but the two of them joined together dumping into the Hudson River millions and millions and millions of gallons daily and who knows how many billions of gallons annually.

I ask that this Board, that our Town Board and that everybody involved with this put their foot on the brakes and take a good look at this. This thing is a polluter. It's a water polluter, it's an air polluter, it's a community polluter.

MR. O'DONNELL: Tony Marino.

MR. MARINO: My name is Tony Marino, I live on 1257 Union Avenue. I've lived there for the past thirty-eight years. I'm also an Orange County Legislator.

18 to the Poughkeepsie Galleria. The \$10,000,000
19 that's generated, the County gets its share
20 first, we share next with the cities and lastly
21 the towns and villages. The Town of Newburgh
22 will get less than \$1,000,000 of new sales tax
23 revenue from The Market Place. That's important
24 to know because whenever a project comes into an
25 area and there's a lot of controversy they start

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2 talking about sales tax revenue and the elected
3 officials get all excited because they think this
4 is good, I won't have to raise the taxes to the
5 residents, and they overlook a lot of other
6 issues. That figure is inaccurate.

7 Then they talk about the Town is going
8 to get \$520,000 in property tax from The Market
9 Place. That may be. Someone said tonight it was
10 going to be less than that. I'm not really sure
11 what that number is. If that \$520,000 had to be
12 assessed upon the homeowners of the Town of

13 Newburgh at the rate that is used, if you have a
14 \$60,000 home assessed in the Town of Newburgh,
15 and most homes in the Town of Newburgh are
16 assessed between \$50,000 and \$75,000, if you have
17 a \$60,000 home at \$0.40 per \$1,000, that's \$24.
18 Certainly there are some who don't want to pay
19 that but it's important we keep things in proper
20 perspective. This is not going to be a great God
21 send in terms of tax dollars for the Town of
22 Newburgh or to Orange County.

23 If this project has to go forward, and
24 many say well it has to go forward because that's
25 the zoning that's allowed for and you can't stop

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2 it, you'll get dragged into court and the Town is
3 going to spend money and lose, you have to do
4 several things. You have to try to downsize the
5 project, you've got to protect the wells of the
6 homeowners that are going to be affected, you
7 have to find a way to assure that the welfare of

8 the Town residents, police, fire and ambulance
9 will not be jeopardized by the heavy traffic
10 you're going to have on Route 52.

11 You're going to have to force the
12 developers to allow the experts to go on the
13 property to see what kind of habitat actually is
14 there. Maybe some people don't care what happens
15 to the wildlife and what is there, but many of us
16 do. If they move out of that area and move out
17 of the residential areas they're going to get
18 killed.

19 This is a major project. The traffic
20 will be horrific. As many of the speakers have
21 said tonight, slow it down. There are a lot of
22 unanswered questions. Thank you.

23 MR. O'DONNELL: Our next speaker is Tim
24 who lives at 80 Powder Mill Road. I just can't
25 make this last name out.

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2 MR. PILLSWORTH: Pillsworth. I have

3 horrible handwriting. Tim Pillsworth, 80 Powder
4 Mill Road in the Town of Newburgh. I have been a
5 resident here about ten years. I'm also the
6 chief of the Winona Engine Company 2 riding first
7 response to service to The Market Place. By no
8 means I'm speaking on behalf of the Orange Lake
9 Fire District or the Winona Lake Fire Company.
10 I'm speaking as a resident and a member.

11 In the past ten years since I've been
12 here the Town has exploded. It's unfortunate
13 where we live in this part of the Town it's been
14 zoned commercial. Can you change it? Maybe but
15 typically you can't.

16 Since that time the traffic has
17 increased. There's been some new traffic lights.
18 This project would put traffic lights in. We put
19 a traffic light at the north entrance by C.B.
20 Driscoll's and the Newburgh Mall to reduce car
21 accidents. It's helped greatly. Now we're
22 putting one at the south entrance. I highly
23 recommend this Town recommends the removal of the
24 one on the north side, go with the one on the
25 south end and put basically access roads into the

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2 C.B. Driscoll's complex and Sherwood Tile. That
3 would reduce basically -- it would actually
4 increase the traffic flow along the interchange
5 from Interstate 84, 87.

6 The impact statement. I have a
7 bachelors in civil engineering and a masters in
8 environmental so I know how to read these things.
9 They can be taken to one extreme or the other,
10 and both sides will do that. I basically try to
11 find a middle ground. I'm not commenting on The
12 Market Place, if I want it or not, because that's
13 not what I really want to stand to make a comment
14 on like this. Since I've been here basically
15 we've had two Wal-Marts, a new one and the old
16 one and the expansion, a Super Stop & Shop,
17 Newburgh Nissan, Lowes, Hampton Inn, we're
18 getting a Hilton. You can keep going on. Not
19 one, not one of these developers has come to the
20 Winona Lake Engine Company and has offered any

21 assistance for anything. Wal-Mart can buy and
22 sell every single person in this place if they
23 want to. Not their souls, the property. Do we
24 have any problems from the developer? No. They
25 are they're working with us and we're hoping

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2 they can assist us with some of our problems with
3 our building. That is more than we've gotten out
4 of Wal-Mart that's come to this Town twice.
5 That's more than we got from Newburgh Nissan, the
6 international corporation Hilton. Look how big
7 they are.

8 The one thing I will have to say on a
9 positive note is they are trying to offer some
10 help to the community. Is it enough? That's not
11 for me to decide. That's for the Town to decide,
12 not myself.

13 The traffic. The traffic is
14 horrendous. The interchanges are going to make
15 it better. Will it be perfect? No. One thing

16 that we all face is the fact we live in the Town
17 of Newburgh and we are in the magic hour. I have
18 been a bridge engineer for numerous years. If I
19 had to drive an hour or less to my project I was
20 happy. We're an hour from New York City, people.
21 We're within commuting distance. It's not going
22 to change.

23 I hope the Board will review all the
24 comments, both the pro and the con, and give a
25 good recommendation for this project.

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2 I hope that they get the traffic light
3 changed on Route 300 so we don't have an
4 additional one because we don't need any more
5 personally. I hope that they request the
6 developer to do the required changes by law if
7 needed and what's reasonable and protect the
8 people but also accept the project in an area
9 that's been zoned commercial from, if I'm not
10 mistaken, the late '60s or early '70s and just do

11 the right thing overall for the Town as a whole.

12 Thank you.

13 MR. O'DONNELL: Sandra Kissam.

14 MS. KISSAM: My name is Sandra Kissam,

15 I reside at 1261 Union Avenue. For the record I

16 would like to note that I live essentially at

17 least a mile-and-a-half or more from the project

18 but it concerns me as much as anyone in this

19 room.

20 I have two levels of concern. One

21 concern is that as everyone has already stated,

22 the traffic is already very, very seriously

23 problematical, and this project will tip it right

24 over the edge. We will have had it if this

25 project goes in as it is planned. I frequently,

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2 in fact probably daily as all of us do, travel

3 down to that major intersection between 84, the

4 Thruway, Union Avenue, et cetera. So you will be

5 creating an obstacle to commerce in this area if

6 you allow this project to go in as it's stated.

7 They always lowball the traffic and they're

8 probably doing it again. Let us not be

9 hoodwinked as before.

10 I would like to bring up a point that

11 has been touched on but I think it's very

12 serious. You'll notice the last couple of days

13 we have had a lot of rain. You'll notice that

14 weather incidents are getting stronger and more

15 frequent. You will, if you bother to look into

16 it, discover that this whole notion of global

17 warming, global heating is in fact with us now

18 and that certain kinds of weather patterns such

19 as tornadoes out west, even tornadoes in our area

20 are going to expect to get more and more severe

21 and more and more frequent. If you clear

22 120 acres of forest, which is essentially forest

23 and wetlands now, which is essentially situated

24 above the developments that we have been talking

25 about, namely the Winona Lake Development, if you

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2 clear that you won't have to worry about the lake
3 filling up, it will fill up with runoff coming
4 down that hill past everybody's home and into the
5 lake now. It will be a mess.

6

I read with interest in the papers
7 about other countries where there are massive
8 floods and our country where there are not only
9 floods but there are also landslides. There's
10 nothing that compares to defoliating an area for
11 generating landslides and runoff, and no plastic
12 fence is going to stop it. It will be terrible.

13

On top of that it will probably be flowing across
14 52 into the park now. There is no way you can
15 stop that. No engineer can find a way to stop
16 that. You are looking at massive flooding
17 potential. You should count on the worst case
18 scenario or we are, all of us, being
19 irresponsible.

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CHAIRMAN EWASUTYN: Sandra, two minutes

please.

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MS. KISSAM: I wanted to make that

23 point.

24 I want to address what that lady said
25 about jobs, oh we should be so happy because

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2 we'll be able to get some jobs locally. There
3 are no guarantees of any kind that those jobs
4 won't be filled by people coming all the way in
5 from Sullivan County, Ulster County, anywhere at
6 all. Anybody can take those jobs. I would
7 venture to say that not a single one except for a
8 manager would be above minimum wage. It isn't
9 worth it.

10 Regarding the \$150,000 offered these
11 people at Winona, who I frankly feel very sorry
12 for because they are unnecessarily fearful,
13 that's ridiculous. Would you move into -- would
14 you be able to get a buyer for your house if they
15 put in this development? Not in your life.
16 Would you move down and buy a home that's in
17 Woodbury Commons? Would anybody want to live

13 MS. KISSAM: I only got started.
14 CHAIRMAN EWASUTYN: Sandra --
15 MS. KISSAM: I was supposed to review
16 and I did review the economic data in the
17 D.E.I.S. This is the fact: According to the
18 D.E.I.S., of all the sales tax revenue our
19 community would get, according to Balter &
20 Wilder, \$278,000 a year. Peanuts. Peanuts. And
21 they don't even talk about what would be lost in
22 property values surrounding the area. On top of
23 that they give data for the taxes they would pay
24 out, schools, property and taxes to the Town of
25 Newburgh, and then at the bottom there's a

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2 footnote, of course we haven't considered the
3 fact that you automatically get a fifty-percent
4 reduction when you are a business coming in. So
5 they haven't calculated that fifty-percent
6 reduction which every new developer counts on.
7 They're not even going to pay full taxes for ten

8 years if they come in. This is a losing
9 proposition for the Town of Newburgh. You are
10 supposed to be here looking clearly. Forget
11 about the environment even. Forget about the
12 environment. This is a losing proposition. If
13 you look coldly at the numbers you'll see that we
14 will be losers. If they come in you should look
15 for a retirement home fast because you're going
16 to have to cut and run.

17 MR. O'DONNELL: Sal Mandarino.

18 MR. MANDARINO: The only thing I can do
19 is fall right on my face right here, right now.
20 Listen John, Board Members, what's been said here
21 tonight needs to really be listened to.

22 UNIDENTIFIED SPEAKER: We can't hear
23 you.

24 MR. MANDARINO: What's been said here
25 this evening really seriously needs to be

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2 listened to extremely hard. We've talked about

3 the environment, we've talked about the
4 environment of mother nature and the financial
5 environment. It really, really needs to be
6 addressed.

7 The retail earnings from this debacle
8 is going to be so minimal to us we're not going
9 to see any benefit from it at all. I'm prepared
10 to give you my \$24 tax increase tonight, and I
11 think I can get up a couple more bucks here from
12 a lot of other people. If that's what you want
13 to save this place, we can do it, you know. This
14 Market Place isn't going to do it. I need you to
15 seriously consider that. I really do. Thank
16 you.

17 MR. O'DONNELL: Carolyn Tricchio.

18 MS. TRICCHIO: Hello. My name is
19 Carolyn Tricchio, I live at 9 Hilltop Avenue.
20 I've lived there for a month. I've heard a lot
21 of people talk tonight about how they've been
22 living here for ten years, thirty years. I
23 fought really hard to get a house. I worked two
24 jobs as did my fiancé. This is the house I was
25 going to bring my children home to.

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They stated there will be ten-hour shifts of blasting shifting thirty feet of rock and transferring it to the other side of the property. The developer acknowledged in a letter to this Board this will possibly impact the wells. That's my well. That's the water I have to drink day after day. We need to know precisely what measures will be in place when the blasting occurs. What is going to take place when we wake up and there's no water or come home from work and the water is compromised? The Town Board must require more.

On 3/28 I wrote a letter to this Board and still have not heard back. Another letter went out from a lawyer and we have heard no response. This Board cannot say the developer is living up to the requirements of the Environmental Impact Law without this document saying the contractor is liable. If I wake up

21 with no water should I call you, Mr. Ewasutyn?
22 You need to protect us. You're here for us and I
23 hope you listen. Thank you.

24 MR. O'DONNELL: Dennis Reistad.

25 MR. REISTAD: Please forgive me with my

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2 voice. My name is Dennis Reistad, R-E-I-S-T-A-D.
3 I live at 63 Monarch Drive. My sister-in-law
4 lives at 66 Monarch Drive. I came up here
5 thirty-five years ago, got involved as a
6 commuter. I traveled to the city for
7 thirty-five years. My daughter said thanks dad
8 for raising us in Newburgh. It's a great town.
9 I'm against this Market Place. My environment,
10 the fire company. My one daughter is a
11 registered nurse and my other daughter is a
12 teacher. They all live here and they're against
13 this Market Place. I hope you consider not
14 approving The Market Place. Thank you for your
15 time and effort.

16 MR. O'DONNELL: That concludes the list
17 that we have for first-time speakers. Is there
18 anyone that hasn't spoken yet that would like to?
19 If not, I'll go to the list of people to speak a
20 second time.

21 UNIDENTIFIED SPEAKER: I was on the
22 list for the second time. I'm sorry.

23 MR. O'DONNELL: I'll get to you.

24 John Parker.

25 MR. PARKER: Good evening. My name is

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2 John Parker, I represent Save Open Space. Before
3 I start my clock I just wanted to thank the Board
4 for considering our request for the three
5 minutes. Thank you. I also wanted to thank the
6 Board for removing the developer from the stage.
7 I think it's good and been helpful for the
8 citizens to share with you their personal
9 experience. I thank you for that.

10 Am I clear? I sound like I might not

11 be coming through on this.

12 Of the many questions tonight I think
13 there are two important legal questions based on
14 this Draft Environmental Impact Statement. Can
15 the Board certify that they have taken a hard
16 look as they are required under Article 8 of the
17 ECL by considering the environmental impacts of
18 this project? Two, can they certify the adverse
19 impacts have been avoided, minimized and
20 mitigated as they are required under the
21 regulations of the Department of Environmental
22 Conservation? We believe that the record does
23 speak for itself in this case, and I think you
24 heard it pretty clearly tonight that the entire
25 record before this Board must be considered, not

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2 just what's been submitted in the D.E.I.S. by the
3 applicant. Experts have and will testify that on
4 a number of crucial issues the D.E.I.S. is
5 flawed, it's inadequate and even dismissive of

6 important concerns of this community.

7 There are some good things here.

8 Perhaps the fact that the public is your partner

9 and they have been doing their best to digest and

10 understand this Environmental Impact Statement of

11 2,000 plus pages. We haven't had a lot of time

12 but we've been doing our best. Because we have a

13 procedure and substantive requirements under

14 SEQRA, we know you're required to address

15 concerns that we raise. As partners in this

16 process I want to ask you a simple question. Can

17 you take a hard look at the impact of this

18 project, a hard look, if you have a blindfold on?

19 What do I mean? You've heard tonight two

20 renowned experts submit testimony to this Board

21 that they cannot reach conclusions because they

22 haven't been on site. I can't understand why the

23 Board does not want to take a look at the site

24 for itself, to require access, to take the

25 blindfold off. If you do that we'll be happy to

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join you and we can arrange a mutually convenient time to do that and it would be much appreciated.

Based upon what's in front of the Board, another question presents itself. Does the Board really have a rational basis to see that all of the environmental impacts are adequately addressed and mitigated? To really look at this question we have to put this into the context of what the development project is.

The developer in this Draft Environmental Impact Statement and in the comments you've heard tonight have really put themselves in a predicament of their own creation. In the long-term effects, section 5.1, is a simple statement about what's going to happen to the Town of Newburgh, and we should all read it together. What's going to happen to the site? It is the loss of 108 acres of existing topography.

Simpler words have never been said about such a dramatic impact to this community.

Now, when you look at what the

23 alternatives are, did they really look at
24 alternatives to this project? Setting aside the
25 option of not building anything, their

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2 alternatives -- there is the fifty to
3 seventy-foot buffer, hundred to a hundred and
4 twenty foot setback. None of those options
5 eliminate the loss of 108 acres of the topography
6 of Newburgh, and that's very fascinating.
7 Particularly, and you heard it raised by
8 residents of the City of Newburgh, Congressman
9 Hinchey's office early on recognized the
10 significant impacts to this community, tried to
11 meet with the developer, as was suggested, in
12 good faith to come up with a less impactful, less
13 burdensome alternative. It really got nowhere.
14 That's not really talked about in the D.E.I.S. in
15 any way.

16 I'm trying to go to three minutes.

17 Excuse me.

13 be taken from what you have in front of you
14 submitted by the applicant. So based on that,
15 based on what you have, we ask that the Planning
16 Board reject this project because the
17 environmental impacts, as adverse as they are,
18 are too high, too significant and too costly for
19 what the Town is going to get in return. Thank
20 you.

21 MR. O'DONNELL: Eric Gordon.

22 MR. GORDON: Thank you, Members of the
23 Planning Board. My name is Eric Gordon, Keane &
24 Beane, P.C. I'm here on behalf of the Newburgh
25 Mall. I would like to thank you again for taking

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2 your time to hear the public tonight.

3 I would like to echo a few of Mr.
4 Parker's comments on legal issues and a couple
5 other legal issues that have not been addressed
6 yet during the public hearing.

7 First, we echo Mr. Parker and his

8 statement that there should be open access,
9 reasonable access to the site. That's extremely
10 important in order to evaluate this D.E.I.S. and
11 take a hard look at the D.E.I.S.

12 Second, in regard to alternatives, Mr.
13 Parker mentioned the alternatives on the site.
14 SEQRA requires consideration and discussion of
15 reasonable alternatives to the proposed action,
16 which would achieve the same or similar
17 objectives. Here the D.E.I.S. does not present
18 any reasonable alternatives. The entire section
19 on alternatives in the D.E.I.S. consists of six
20 pages and a few diagrams out of -- what did Mr.
21 Parker mention -- about 2,000 pages. The first
22 one as he mentioned, no action. Obviously this
23 project is in a commercial zone. As people said,
24 there should be some type of reasonable
25 development there. The remaining access road

3 removing some parking, not eliminating any of the
4 850,000 square feet but eliminating parking to
5 put in additional buffers; again, that's not a
6 reasonable alternative. The other one is about
7 modifying the design of the lifestyle center.
8 Again, that does not clearly say that there's any
9 elimination of the actual 850,000 square feet of
10 retail space. None of these proposed alternatives
11 contemplates a reduction of the scope or density
12 of the overall project. It proposes alternative
13 land use plans by reducing the scope of the
14 project. For example, if you could eliminate
15 some of the density and preserve some open space
16 or provide for alternative land uses, many of the
17 impacts you heard about in the last two public
18 hearings, and I'm sure you'll be hearing more of
19 in regard to trees, air pollution, traffic,
20 drainage, wetlands, would be mitigated if they
21 just presented a reasonable alternative
22 development plan. The failure to consider and
23 present reasonable alternatives is a violation of
24 SEQRA and applicable law, and the developer
25 should be required to prepare a Supplemental

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2 D.E.I.S. to address this deficiency and include
3 real alternatives.

4 Now, I just want to next address the
5 authority and responsibility of this Board.

6 CHAIRMAN EWASUTYN: Mr. Parker, two
7 minutes.

8 MR. GORDON: Mr. Gordon.

9 CHAIRMAN EWASUTYN: Mr. Gordon. Excuse
10 me.

11 MR. GORDON: That's okay. The Planning
12 Board has power and authority and it's not merely
13 limited to deciding whether or not the plan
14 complies with the appropriate variance, zoning --
15 variance or ordinances. We've heard this use is
16 permitted, it fits within all the zoning
17 regulations so therefore we can't do anything.
18 That's completely untrue. In addition to being a
19 steward of the environment under SEQRA, the Town
20 of Newburgh Code requires the Planning Board must

21 ensure the development and use of land in the
22 Town of Newburgh will have a harmonious
23 relationship to the existing contiguous land and
24 adjacent neighbors to ensure the health, safety,
25 welfare, comfort and convenience of the public is

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2 fully considered. That is not done in this
3 D.E.I.S.

4 There are other sections of the Town
5 Code that set forth other general considerations
6 regarding proposed site plans. To date nothing
7 has been done, again to protect the general
8 welfare, safety and convenience of the public and
9 the neighbors. On the contrary, the developer
10 has been given carte blanche to do basically
11 whatever it wants with little objection from this
12 Board or the elected officials.

13 The Town Code also has a specific
14 section that when located adjacent to a
15 residential district, which is the case here,

16 there are several requirements. The location and
17 size of such use, nature and intensity of
18 operations involved, and layout on the site in
19 relation to access must be -- must not be
20 hazardous or inconvenient or incongruous with
21 residential districts or conflict with normal
22 traffic in the neighborhood. They have two
23 access roads going through residential
24 neighborhoods here. This will also directly
25 impact the Newburgh Mall. As stated, it is

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2 directly across from them and will increase
3 traffic. It will be harmful to the access to the
4 mall. That's definitely a consideration of the
5 Newburgh Mall here.

6 In closing, the law requires the
7 Planning Board to give consideration to factors
8 other than specific zoning requirements. To date
9 the Planning Board has not shouldered these
10 responsibilities by considering these

11 alternatives that would reduce the scope and size
12 of the project or the different types of land
13 uses other than 850,000 square feet of retail
14 space. Thank you.

15 MR. O'DONNELL: Nat Parish.

16 MR. PARISH: Thank you, Mr. Chairman
17 and Members of the Board. What I would like to
18 do is summarize the comments that I would have
19 liked to have made at length.

20 Earlier I talked about the traffic
21 impacts that haven't been accurately examined.
22 They are not minor, they're major deficiencies.
23 When the traffic study is redone to take care of
24 all these deficiencies, we're quite confident
25 it's going to establish that a number of

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2 intersection movements are operating at a level
3 of service that can't be accepted as mitigating
4 adverse impacts. Once the traffic study is
5 redone, then the air quality study has to be done

6 properly because that's a function of traffic.
7 If there's congestion in certain intersections,
8 there has to be a total analysis then of what the
9 air quality impacts are. Similarly, the noise
10 impacts for this type of project are a function
11 of traffic. So once you start with revising the
12 traffic you have to revise the noise, you have to
13 revise the air quality.

14 When we move on, you had testimony from
15 a very good professional, Carpenter Engineering,
16 who established that the drainage studies that
17 have been done for this project are grossly
18 inadequate and all of the reasons for that have
19 been put into the record.

20 Also, I'd like to note we're going to
21 put in a technical report that establishes that
22 there have not been adequate geotechnical studies
23 with respect to the impact of blasting. You're
24 going to have rocks from as much as forty feet.
25 In an area such as this you have to have a

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2 geotechnical expert who will say not only what
3 we're going to try to protect but what are the
4 impacts in terms of migration, in terms of wells,
5 in terms of noise, what's the duration of the
6 impact, that's the decibel level, what are the
7 impacts to the wells and other construction
8 impacts. That must be done by a qualified
9 geotechnical expert. I don't think all of the
10 construction period impacts, the period of
11 construction, have been adequately described in
12 this report.

13 I want to talk about the wetlands, and
14 others have made the point but I would like to
15 make it from personal experience. I've been
16 working since the passage of SEQRA on development
17 projects for developers, reviewing it for
18 communities and for people who have been
19 concerned. I've been on all sides of this.
20 Never, never have I been involved in a project in
21 which there's been a denial of either the experts
22 or the community itself to walk on the project

23 area and to perform a survey. It's never
24 happened. I don't know whether or not you can
25 cite the specific chapter or law, but certainly

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2 precedence in terms of the review. I don't know
3 whether this Board has ever had an experience in
4 which a developer has denied access to a site.
5 Certainly if that continues then it makes a sham
6 of the whole review process because there can't
7 be public review unless you can look at all of
8 the factors. You can't look at the factors if
9 you can't see the simple evidence on the site
10 itself. There is evidence, however -- there are
11 many reasons why a developer, and I'm just
12 speculating but I think it's reasonable in this
13 case because of his adamant refusal that perhaps
14 there are factors, wetlands on the site that
15 haven't been fully delineated, there's a
16 different interpretation of where its boundaries
17 are. Perhaps those wetlands extend to other

18 wetlands to make them eligible as DEC wetlands.
19 Perhaps there are endangered species on the site
20 that we're not supposed to know about. All of
21 these -- perhaps I'm wrong but without being able
22 to review that and to look at the site, look at
23 it independently and fairly, your Board doesn't
24 know, the public doesn't know and the whole
25 process of a hard look simply is down the drain.

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2 CHAIRMAN EWASUTYN: Mr. Parish, two
3 minutes.

4 MR. PARISH: I'm winding up, Mr.
5 Chairman.

6 Eric just mentioned alternatives.
7 Alternatives are -- I don't believe in
8 alternatives for the sake of alternatives. Lots
9 of time people suggest silly ones. In this
10 particular case we're dealing with a project
11 which has serious potential adverse impacts.
12 They have been talked about all night here in

13 this hearing and the previous hearing. What's
14 demanded therefore, because of these serious
15 impacts is not to just create another alternative
16 but to create alternatives that better address,
17 better mitigate the impacts that have been cited.
18 I believe that those need to be those which will
19 generate less traffic, those which will preserve
20 more of the open space on the site and those
21 which will involve less excavation and regrading
22 of the site. I think a sensitive land use plan
23 can be developed.

24 I want to emphasize that Bob Wilder and
25 Bill Balter are very good guys, they're good

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2 builders, and if the Board were to ask them and
3 say hey, we have to have a different kind of
4 plan, I'm sure they and their very excellent
5 staff will respond and produce an alternate plan
6 that the community can live with and that all of
7 us can support.

8 CHAIRMAN EWASUTYN: Thank you.

9 MR. PARISH: I think that has to be
10 embodied in a Supplementary D.E.I.S. of which
11 another public hearing will need to be held
12 because if that doesn't happen then the whole
13 process has been deficient.

14 Thank you, Mr. Chairman and Members of
15 the Board.

16 MR. O'DONNELL: Maggie Mayer.

17 MS MAYER: I think you've seen me
18 enough today. I'll just say this. Just because
19 they own the property doesn't mean he can build
20 whatever he wants on it. I own my property and I
21 can't build whatever I want on my property.

22 MR. O'DONNELL: Michael Murphy.

23 MR. MURPHY: Good evening, gentlemen
24 and ladies. My name is Michael Murphy, I live at
25 6 Hilltop Avenue. I'm here tonight as a resident

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2 of a twenty-five home residential development of

3 fifty-five years. I have Ms. Barnard right here,
4 our neighbor. We built our homes together
5 fifty-five years ago. Dawn Macco lives on Fern
6 Avenue right across from us. Fifty-five years
7 ago. Mrs. Hogencamp who is ninety years old was
8 unable to make it because she's confined to the
9 house, and she is concerned.

10 Your property abuts, you gentlemen
11 know, I saw you in the woods, abuts our home.
12 Unfortunately I was taking a shower. Good for
13 you.

14 Anyway, Ms. Hogencamp, she's
15 ninety years old, she's scared to death. She
16 keeps calling me Murph, what's going on? What
17 are we going to do? What's going to happen if we
18 lose the water? This is our big concern. That's
19 the issue.

20 In my opinion one buffer zone -- my
21 issue is the Town of Newburgh's fifty-foot buffer
22 zone. In my opinion one buffer zone designation
23 does not fit all situations, and this is a
24 situation. We are a residential area that is
25 dependent on private individual wells and septic

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2 systems as opposed to residential areas with Town
3 water and sewer. That's all we have is what's in
4 that well. We are in need of an extended and
5 effective buffer to protect our properties. You
6 all saw fifty feet tonight with the rope. I wish
7 one of you lived up on the hill, I think you'd be
8 concerned.

9 The developer has offered us an
10 unacceptable seventy-five foot buffer. This was
11 quite some time ago when they came to our home.
12 Mr. Tedesky came. We invited Mr. Wilder to our
13 home to try to talk and try to do better. Here
14 we are, still arguing. We are sure our Town
15 Planning Board will recognize their
16 responsibility, your responsibility, to protect
17 these citizens and provide us with an adequate
18 and effective buffer in lieu of the fact that
19 extensive blasting in our immediate area is
20 planned by these people. Fifty feet. One person

21 has his well twelve feet from the buffer. Twelve
22 feet and they're going to be blasting. Then
23 they're going to haul this stuff and they're
24 going to have a mining operation. That's one
25 thing I haven't heard. Is anybody aware of it?

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2 They are going to take all this stuff and crush
3 it. They are supposed to be crushing until 6:00
4 at night which I think is ridiculous. That thing
5 should be shutdown at 5:00, period.

6 My question to the Board is who will be
7 responsible in the event that any damage
8 whatsoever is experienced by our homeowners?

9 We suggest that if this happens, a stop
10 order be issued for this project. We don't want
11 to go any further until we find out what's
12 happening. It's no fun to be without water,
13 gentlemen.

14 Furthermore, I had Mr. Tedesky at the
15 house one night when he proposed this

16 seventy-five feet. He said we'll give you
17 seventy-five feet as a buffer but we're going to
18 start cutting down at fifty feet, and then at the
19 meeting at the ambulance corp. when it was
20 proposed as fifty feet you quoted that you're
21 going to start cutting at twenty-five feet. I
22 have good hearing. Don't shake your head.
23 Twenty-five feet. If a buffer is fifty feet, if
24 a buffer is a hundred feet or a hundred and fifty
25 feet, that's where the barrier goes. That's

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2 where the barrier goes, not before. I hope
3 somebody is going to be watching these people
4 because I know I am. I'm retired and boy I'm
5 going to be a thorn in your side.

6 Thank you very much.

7 MR. O'DONNELL: Eleanor Doderer.

8 MS. DODERER: My name is Eleanor
9 Doderer, I live at 83 Wintergreen Avenue. Mr.
10 Chairman, Board Members and guests, Wilder,

11 Balter claims they are here for the duration.
12 Are we so naive to think the developers will be
13 here for the lifetime of this mall? Once this
14 project is completed and no additional
15 opportunities exist for them to expand in our
16 area is it feasible to think they will be here in
17 the existing environment when problems are made
18 worse? What about after the first wave of
19 desirable tenants leave if business expectations
20 aren't forthcoming, is this then going to be a
21 hangout, an area for crime and shoplifting?
22 We're well familiar with the studies of Woodbury
23 Commons, how 71 percent of the arrests in the
24 Town of Woodbury occur at the Commons. The
25 D.E.I.S. specifically states the mall "will

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2 increase the demand for police services in the
3 Town." As Ms. Kissam has stated, the developer
4 has stated the Town will receive a certain amount
5 in taxes, however we also know that they will

6 only be paying half taxes for the first year and
7 not pay full taxes for ten years assuming that no
8 tax abatements are given. This also assumes the
9 developer will have all the stores rented and
10 receiving the income projected. It also assumes
11 that the economy will not experience a more
12 significant down turn. We all are aware of the
13 fact this information was gathered more than a
14 year ago and gas prices have increased. Even
15 huge retailers such as Wal-Mart are experiencing
16 significant economic consequences. I would like
17 to know how the developer plans to guarantee this
18 project will be fully rented to desirable tenants
19 and not become a mammoth empty ghost town. We're
20 well aware of what happens to an area when that
21 occurs.

22 Mr. Parish had talked about traffic in
23 the City of Newburgh and I just wanted to mention
24 the fact that of the 25,000 residents in the Town
25 of Newburgh, half are registered voters, and

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2 according to the records that we checked most of
3 them travel either the Route 52, Route 300 or
4 Route 17K corridor to get to and from their homes
5 This is a major traffic corridor. Traffic will
6 simply be shifted from one major intersection to
7 secondary roads. This does not even consider
8 traffic to other areas such as Walden, New
9 Windsor, Vails Gate, et cetera. Where will the
10 money come to improve secondary roads When
11 they're already experiencing increased traffic
12 if an additional 2,500 cars per hour are put on
13 these roads during peak hours?

14 According to the D.E.I.S., the project
15 site is currently serviced by consolidated water
16 and crossroads sewer district, therefore no
17 extension of water and sewer is necessary. I
18 believe this statement fails to take into account
19 all of the other building projects approved or
20 proposed for the Town. Of course when these
21 infrastructure limits are reached new
22 construction will then be necessary for an

23 expanded or possibly brand new sewer treatment
24 plant for the Town of Newburgh. I believe Town
25 residents and taxpayers will ultimately bear the

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2 financial and environmental burden both predicted
3 and unknown as a result of this project long
4 after the developers have ended their
5 responsibility.

6 The information I have heard tonight
7 convinces me even more to respectfully ask the
8 Town Planning Board to call for an independent
9 third-party review of traffic, air quality,
10 ecology, water and runoff. The D.E.I.S. as it
11 presently stands solely represents the developer
12 and their proposal. This is not a conflict of
13 interest. If the D.E.I.S. is inaccurate and
14 already some questions have been raised about it,
15 could the Town of Newburgh and its residents be
16 sued? What happens if private property is
17 damaged as a result of this construction after

18 the developer leaves and no time limits are
19 imposed for damages or they have expired?
20 I would like to close with a quote from
21 Chief Seattle 1855. Human kind has not woven the
22 web of life, we are but one thread within it.
23 Whatever we do to the web we do to ourselves.
24 All things are bound together. All things
25 connect. Thank you.

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2 MR. O'DONNELL: Diana Krautter.

3 MS. KRAUTTER: My name is Diana
4 Krautter of the Winona Lake Homeowners
5 Association and I live at 48 Wintergreen Avenue.
6 I'm going to read a continuation of a letter
7 written by John Gebhards, that's G-E-B-H-A-R-D-S,
8 who resides at the same address and also is a
9 member of the Winona Lake Homeowners. He began
10 his letter at the previous Planning Board
11 meeting. At that time John made statements
12 regarding the topics of quality of life in the

13 Town of Newburgh, air pollution, traffic,
14 biodiversity and the wetlands.
15 Now I will read the remainder of his
16 letter which talks about other alternatives.
17 Other than the no action alternative that leaves
18 the tract of land as is, the other alternatives,
19 access, road realignment, buffer and the life
20 center provide little meaningful relief from the
21 malities of the proposed design. Too much
22 traffic, pollution, stormwater impacts, habitat
23 destruction. These alternatives are only minor
24 tweaks, not significant alternatives. The
25 developer refused to consider a more significant

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2 and meaningful alternative, a project that could
3 truly serve the Town of Newburgh, such as a new
4 urban center that could mean less traffic and
5 pollution, more area left in a natural state but
6 perhaps less profitable for the developer. The
7 Town Planning Board should require that it be

8 given the opportunity to evaluate such an
9 alternative given the possibility that many of
10 the highly negative aspects of this project might
11 be avoided. The Final D.E.I.S. should contain an
12 evaluation of this alternative, a cumulative
13 impact with the rapid rate of development along
14 Route 300 and Route 52. No one knows what the
15 true impact will be when all is built out. Are
16 we just to sit back and die the death of 1,000
17 cuts or should we know when to put the brakes on
18 development before we all go over the proverbial
19 cliff? With all due respect, this sounds like a
20 responsibility of the Planning Board. We must
21 have an idea of what the cumulative impacts of
22 this rampant development will be. When a mega
23 project comes along such as The Market Place, it
24 is then time to say wait. We cannot evaluate
25 this project in a vacuum. We need to have

3 deal with the services and negative impacts on a
4 cumulative basis.

5 Please require as part of the Final
6 D.E.I.S. a comprehensive, cumulative impact
7 section that will give you the details needed to
8 do your job of protecting our quality of life.

9 Sincerely, John Gebhards.

10 I would just like to add for myself
11 that if it were not for the work of Wilder,
12 Balter Partners I might not have the opportunity
13 to have met some of my wonderful neighbors.

14 Thank you.

15 MR. O'DONNELL: Doug Bard.

16 (No response.)

17 MR. O'DONNELL: Frank Carbone.

18 MR. CARBONE: Good evening. My name is
19 Frank Carbone Junior, 39 Wintergreen Avenue, Town
20 of Newburgh. This project and others are
21 entirely too much for the Town of Newburgh to
22 manage. The Town of Newburgh can't even manage
23 some of the infrastructure, major infrastructure
24 we have existing, such as stormwater. They have
25 a poor track record of managing stormwater,

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2 especially along the Route 52 corridor. The
3 stuff that was coming out of the old project
4 Meadow Winds still is. Domestic water coming --
5 the Town of Newburgh's domestic water, if you
6 know people who have filters in their homes, the
7 filters turn black within a few weeks, so they
8 remove the filters.

9 Sanitary sewage is unmanageable. It
10 goes to the City of Newburgh. Sometimes, like in
11 the rains we've got right now -- you won't read
12 this in the papers, it hasn't been touched yet.
13 Normal flows into the City of Newburgh from the
14 Town are about 17 -- 1.7 million gallons of
15 water, 1.8 million. In a time when we get a rain
16 it jumps threefold.

17 Do the citizens of the Town of Newburgh
18 want another Woodbury Commons project in the
19 Town? Does the Town of Newburgh want a Woodbury
20 Commons in the Town of Newburgh? Does the

21 Planning Board? Is the Town Planning Board and
22 Town Council even listening to the people? Will
23 they make all the right decisions for the future
24 health of the citizens of the Town of Newburgh?
25 What are all of the impacts, for example

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2 environmental, economic, crime, from all the
3 projects planned for the Town of Newburgh and
4 surrounding towns? What are the true or what are
5 the real impacts of The Market Place mega mall on
6 the Town of New Windsor, the City of Newburgh and
7 other towns in the area?

8 I have many unanswered questions
9 regarding The Market Place mega mall and all the
10 major impacts that it will create. Does the
11 Planning Board and Town Council have similar
12 questions and concerns? Will they be asking
13 those important and tough questions?

14 The Newburgh Town Council folks have
15 taken oaths to protect and serve the residents of

16 the Town of Newburgh. Decisions made by the
17 Council and the Planning Board will affect all of
18 us for the rest of our lives. Will they make the
19 right decisions? I hope so. Their decisions
20 could have long-term negative impacts which could
21 be irreversible if they permit the mega mall to
22 move forward.

23 In your decision-making process please
24 consider all of the folks, the men, women and
25 children, who have respiratory illnesses. We've

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2 got many in the area here. This is one of the
3 worst areas in the whole state outside of New
4 York City based on a survey datum of emergency
5 room visits. Respiratory illnesses and those in
6 the future who will contract various respiratory
7 illnesses due to poor and contaminated air, air
8 that we'll all be breathing.

9 CHAIRMAN EWASUTYN: Frank.

10 MR. CARBONE: Most humans don't

11 appreciate good, clean air until it's too late or
12 until they themselves become sick with asthma as
13 we heard earlier this evening, emphysema or other
14 respiratory illnesses.

15 I'll bring your attention to this
16 headline that was in The Sentinel this week.

17 CHAIRMAN EWASUTYN: Two minutes for
18 closing.

19 MR. CARBONE: Thank you. I'm just
20 about done.

21 There's more to this that meets the
22 eye. Kudos to the editor of The Sentinel.
23 There's more to this. This potential \$150,000 or
24 paltry sum, when you do the math it's
25 approximately \$1,000 per homeowner, assuming

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2 possibly if it is accepted by the homeowners, and
3 I hope it isn't accepted.

4 I'm a past retired president of the
5 homeowners association and I oppose the mall.

6 Don't believe what you read in The Times Herald
7 Record, especially today's article. I have to
8 challenge Tim Logan, the writer. I have to get a
9 hold of him. When you look at that \$150,000
10 spread out over 150 homes, that's \$1,000 per
11 home. How much will the property value of the
12 individual homes decrease? It's going to be more
13 than 1,000 bucks. I believe it is. I hope it
14 isn't but I believe it will be. The impacts will
15 be far greater than \$1,000 per household.

16 That's about all I have. On the way in
17 here tonight I walked in with a gentleman -- do I
18 still have time, John?

19 CHAIRMAN EWASUTYN: Yes.

20 MR. CARBONE: I walked in here with a
21 gentleman, I won't mention his name, he said that
22 if this same offer was made to a public official
23 it would be illegal. There's other offers I've
24 written about, I've put it in the paper. They
25 haven't been stated but there's been other offers

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2 that have been made from the developer through
3 the supervisor to me as president of the
4 homeowners. That's all I have to say. There's
5 probably a lot of things that you're not going to
6 be privy to, they're not going to be written
7 about and it won't be touched by the papers.

8

9 Anyway, I hope this project doesn't go
10 through. I hope it fails and we can all live in
11 this area without having to worry about all this
12 traffic, crime and pollution. I hope a lot of
13 people don't get sick. Thank you.

14

MR. O'DONNELL: Elizabeth Steltz.

15

MS. STELTZ: I reserve the right to
comment. Thank you.

16

MR. O'DONNELL: Thank you. Ellen
Gonyea.

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UNIDENTIFIED SPEAKER: She left.

18

MR. O'DONNELL: She's not here. Joseph
Mandarino.

19

MS. MANDARINO: That's actually Josepha
Mandarino, 15 Starrow Drive.

20

23 MR. O'DONNELL: Excuse me.

24 MS. MANDARINO: Coming so close to the
25 end of this process I find myself in the position

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2 of having to say that everybody that's spoken
3 here tonight with such passion and logic have
4 expressed most of the concerns that I have, and
5 so I don't want to belabor those points. What I
6 would like to do is offer my remaining time, the
7 last two-and-a-half minutes or so, to perhaps two
8 minutes of silence so that we can all pay our
9 final respects to the heart and soul of this Town
10 if the Market Place mall gets built as projected.
11 Thank you.

12 MR. O'DONNELL: David Barber.

13 (No response.)

14 MR. O'DONNELL: Mr. Chairman, that
15 concludes the list.

16 MR. BARBER: Good evening.

17 MR. O'DONNELL: Sorry.

18 MR. BARBER: It's Dave Barber. Thank
19 you for taking the time once again this evening.
20 I didn't get a chance to put much together. It's
21 really straight from the heart. It's fitting
22 that we're in a school here in our little local
23 community having this meeting tonight because
24 these are our neighbors out back here and our
25 children likely play different games together.

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2 My thought is what are our children -- I'm paying
3 my mortgage off, what are they going to get in
4 this area? People go off to the service but they
5 always come home to hometown, and we've got a
6 nice little community here. It's just rampantly
7 growing.

8 The sense that I get from everybody out
9 here is we're right on the money where it's
10 unchecked, unplanned, unregulated at this point.
11 I just hope you all will give very big
12 consideration to the fact that you're just a

13 group of men giving of your time and energy, men
14 and women, and we appreciate that but we sure
15 hope you're looking out for our best interest.
16 Thank you.

17 CHAIRMAN EWASUTYN: Mike, I'm going to
18 ask you to summarize for the Board and the public
19 at this time in the meeting.

20 MR. DONNELLY: I'll repeat a little bit
21 of what I outlined when the hearing began at the
22 beginning of the month. If the hearing is to
23 close this evening, the next step will be the
24 public written comment period which will run for
25 thirty days from this evening's meeting. Any

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2 member of the public is permitted to submit to
3 the Planning Board or the Town Hall office any
4 written comments or documents they wish to
5 submit. After that public comment period closes,
6 the applicant and its various professionals will
7 need to prepare and submit to the Planning Board

8 a document called a Final Environmental Impact
9 Statement. In that statement they will have to
10 address the content of the public comments that
11 were made both orally at this hearing as well as
12 those that are submitted in writing, and that
13 document, the Final Environmental Impact
14 Statement, though its initial preparation will be
15 by the applicant, will ultimately be a document
16 issued by the Planning Board, and the extent of
17 the studies and the adequacy of the answers will
18 be things that the Planning Board through the
19 assistance of its various consultants will
20 review. When that document is determined to be
21 satisfactory it will be issued by the Planning
22 Board and then not sooner than ten days
23 thereafter the Planning Board will issue yet
24 another document which is called a finding
25 statement. The F.E.I.S. is the discussion and

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2 the documentation of the environmental impacts,

3 identification of those that can be avoided and
4 recitation of the mitigation measures that have
5 been proposed by the applicant. The findings
6 will go further and will announce what mitigation
7 measures the Planning Board will impose on the
8 project, what parameters the amended plans will
9 need to satisfy in order to address and mitigate
10 to the maximum extent practicable those
11 environmental impacts that have been determined
12 unavoidable from the project. That whole process
13 will take a period of time. I cannot predict for
14 you how long. The F.E.I.S. as we call it, the
15 Final Environmental Impact Statement, and the
16 findings are in preparation, the applicant will
17 also be revising and updating its plans somewhat
18 in parallel with that but there may indeed be
19 some changes begun. That process, when it
20 culminates, will result in an action by the
21 Planning Board. While it is conceivable that the
22 project could be disapproved, as many have
23 recognized tonight the property is zoned for
24 commercial, long has been and some project is
25 likely to come. Mitigation measures, both

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2 volunteered by the applicant as well as imposed
3 by the Planning Board, may in some fashion alter
4 it as you see it tonight, perhaps reduce its
5 scope. Certainly we'll need to address some of
6 the impacts that you've raised. You are all
7 welcome to submit written comments after the
8 hearing is closed as I anticipate it will be
9 during the next thirty-day time period, and the
10 project will move forward in its review from that
11 point.

12 CHAIRMAN EWASUTYN: At this point I'll
13 ask the Board Members if they have any comments.

14 Frank?

15 MR. GALLI: No.

16 CHAIRMAN EWASUTYN: Ken?

17 MR. MENNERICH: No.

18 CHAIRMAN EWASUTYN: Ed?

19 MR. O'DONNELL: Just two things. I

20 thought that the points that the residents

21 brought up were meaningful and directly related
22 to this project and I would like to congratulate
23 you on that point, and also the fact that you
24 were very professional in the way you presented
25 your thoughts. I thank you.

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2 MR. GLYNN: I can cut this real short
3 and say I second what my associate just said. I
4 congratulate you on your attention and your
5 presence. Thank you very much.

6 CHAIRMAN EWASUTYN: Thank you. You
7 have made my life easy and pleasant.

8 At this point I'm going to move for a
9 motion from the Board to close the public hearing
10 and to set the written time -- written comment
11 period to the 31st of July, that's a Monday,
12 closing at 4:30 p.m.

13 MR. MENNERICH: So moved.

14 CHAIRMAN EWASUTYN: I have a motion by
15 Ken. Do I have a second?

16 MR. GALLI: Second.

17 CHAIRMAN EWASUTYN: I have a second by

18 Frank. Any discussion of the motion?

19 (No verbal response.)

20 CHAIRMAN EWASUTYN: I'll ask for a roll

21 call vote starting with Frank.

22 MR. GALLI: Aye.

23 MR. MENNERICH: Aye.

24 MR. O'DONNELL: Aye.

25 MR. GLYNN: Aye.

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2 CHAIRMAN EWASUTYN: Myself. So

3 carried.

4 MR. PARISH: May I ask two brief

5 questions? One question is is there any intent

6 of the attorney to express -- is there any intent

7 that the Board will at one of its meetings

8 consider the need to submit a supplementary

9 D.E.I.S. rather than an F.E.I.S? Will that be

10 considered?

11 CHAIRMAN EWASUTYN: That can be
12 considered. I can't answer that question at this
13 time.

14 MR. PARISH: Secondly, is there any
15 intention, I know it's not mandatory, that the
16 Board would hold a public hearing on the F.E.I.S.
17 after it's issued?

18 CHAIRMAN EWASUTYN: We'll take that
19 under consideration, sir.

20 MR. PARISH: Thank you.

21 CHAIRMAN EWASUTYN: I thank you all for
22 attending.

23 I move for a motion to close the
24 hearing of the 29th of June.

25 MR. GALLI: So moved.

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2 MR. MENNERICH: Second.

3 CHAIRMAN EWASUTYN: I have a motion by
4 Frank, a second by Ken. I'll ask for a roll call
5 vote starting with Frank.

6 MR. GALLI: Aye.

7 MR. MENNERICH: Aye.

8 MR. O'DONNELL: Aye.

9 MR. GLYNN: Aye.

10 CHAIRMAN EWASUTYN: And myself. So

11 carried.

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13 (Time noted: 9:35 p.m.)

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CERTIFICATION

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.

23 DATED: July 12, 2006

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